Calendar No. 2193

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2170

PROVIDING FOR THE CONVEYANCE OF CERTAIN REAL PROPERTY OF THE UNITED STATES TO THE PORT OF PORT TOWNSEND, WASH.

JUNE 11, 1956.—Ordered to be printed

Mr. JACKSON, from the Committee on Government Operations, submitted the following

REPORT

[To accompany S. 3388]

The Committee on Government Operations, to whom was referred the bill, S. 3388, to provide for the conveyance of certain real property of the United States to the port of Port Townsend, Wash., having considered the same, report favorably thereon, with an amendment, and recommend that the bill, as amended, do pass.

The amendment is as follows:

Page 2, strike out section 2 and insert in lieu thereof the following new section:

> SEC. 2. The Administrator shall determine the fair market value of the real property subject to conveyance under this Act and if the port of Port Townsend fails to tender to the Administrator an amount equal to such fair market value on or before the one hundred twentieth day after the date such fair market value is made known to the port of Port Townsend by the Administrator, this Act shall cease to be in effect after such one hundred twentieth day.

PURPOSE

The purpose of this bill is to authorize and direct the Administrator of General Services to convey to the port of Port Townsend all right, title, and interest of the United States in 30.62 acres of land of which 28.44 acres was originally donated by the town of Port Townsend to the United States. This property has been declared excess to the needs of the Department of Defense and referred to the General

Services Administration for disposal as surplus property. The bill, as amended, further provides that, if the port of Port Townsend agrees to pay the fair market value of the property, such payment must be tendered to the Administrator on or before the 120th day after receiving notice of the fair market value, to be determined by the Administrator. The United States reserves all minerals including oil and gas; and the imposition of such additional terms as the Administrator determines to be necessary to protect the interests of the United States.

NEED FOR THE LEGISLATION

The citizens of Port Townsend, Wash., deeded to the United States property located in Jefferson County, commonly known as Hudson Point Military Reservation and used by the Department of the Army for amphibious training purposes. This property, which also includes a dredged boat basin, a small pier and other structures, formerly used as a quarantine station and Navy Minesweepers School, was recently declared excess to the needs of the Department of Defense and referred to the General Services Administration for disposal as surplus property.

The port of Port Townsend offered to purchase the property from the United States Government at the fair market value established by an appraisal made at the request of the Administrator of General Services. However, this proposed negotiated sale was not executed due to allegations that the appraised price was too low. A second appraisal was made at the direction of the Administrator which resulted in a higher evaluation. The Port Authority of Port Townsend refused to negotiate for the purchase of the property, alleging that the second appraisal was inflated. In the meantime, the authority of the General Services Administration to negotiate the sale of surplus property had expired, and S. 3388 was introduced to give the port of Port Townsend an opportunity to purchase the property at fair market value before the General Services Administration advertised the property for public sale. The port authority believes that, if the property is sold at public auction by GSA, it is possible that the site may be purchased and used for commercial enterprises that would not fit into the overall planning and development of the community of Port Townsend.

Since the property covered by this bill, originally donated for patriotic reasons by the citizens of Port Townsend, Wash., to the Federal Government, has now been abandoned by the United States and the property declared surplus to the needs of the Government, it is the view of the committee that the approval of S. 3388 is a matter of equity, and in the public interest.

AGENCY COMMENTS

The following reports were received from the agencies having an interest in the proposed legislation, with reference to the bill as originally introduced:

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D. C., April 5, 1956.

Hon. JOHN L. MCCLELLAN,
Chairman, Committee on Government Operations,
United States Senate, Washington, D. C.

MY DEAR MR. CHAIRMAN: This will acknowledge your request of March 12, 1956, for the views of the Bureau of the Budget on S. 3388, to provide for the conveyance of certain real property of the United States to the port of Port Townsend, Wash.

This bill authorizes the Administrator of General Services to sell to the port of Port Townsend, Wash., some 30 acres of surplus Federal property which was formerly the Hudson Point Military Reservation and was used by the Department of the Army until 1953 for amphibious training. The conveyance would be made at fair market value, which is defined to be the average of two appraisals of the property made in 1954 and 1955. The Bureau of the Budget believes that this method of determining fair market value is inapproprate and recommends that the Administrator of General Services be authorized to determine the present fair market value.

Subject to the foregoing change, the Bureau of the Budget would have no objection to enactment of S. 3388.

Sincerely yours,

PERCY RAPPAPORT,
Assistant Director.

GENERAL SERVICES ADMINISTRATION,
Washington, D. C., April 11, 1956.

Re S. 3388.

Hon. JOHN L. MCCLELLAN,
Chairman, Committee on Government Operations,
United States Senate, Washington, D. C.

DEAR MR. CHAIRMAN: Further reference is made to your letter of March 12 requesting the views of this agency regarding S. 3388 for the conveyance of certain real property to the port of Port Townsend, Wash.

The bill would authorize and direct the Administrator of General Services to convey to the port of Port Townsend 32.62 acres, more or less, in Jefferson County which comprises a part of real property known as Hudson Point, formerly used by the Department of the Army for amphibious training.

The bill would further provide that the Administrator shall determine the fair market value of the real property which is stated to mean "an amount equal to the average of the two appraisals of such land which were made July 1954 and October 1955" and that if the port of Port Townsend fails to tender to the Administrator an amount equal to such fair market value on or before the 120th day after the date of such fair market value is made known to the port of Port Townsend, this act shall cease to be in effect after such 120th day.

The Corps of Engineers in reporting the property excess estimated its cost to the Government, including buildings, structures, utilities, and miscellaneous facilities at $727,354. The property fronts on Admiralty Inlet and Port Townsend Bay, and includes a small-boat

basin to accommodate vessels of light draft. The basin is improved by protecting jetties and several small docks. Additional improvements on the land are 23 main buildings and 9 related structures. Construction is frame permanent type, except for 4 barracks of temporary type.

Although this property could be disposed of under the provisions of the Federal Property and Administrative Services Act of 1949, the port, in order to acquire the property for unrestricted use in any such disposal, would have to be the successful bidder at a publicly advertised competitive sale.

It should be noted that S. 2668 and H. R. 7231, presently pending before the Congress, would, if enacted, authorize this agency to negotiate disposals of surplus property at fair market value to States, Territories, possessions, political subdivisions thereof, or tax-supported agencies therein, thus eliminating the need for special legislation of the type comtemplated by S. 3388.

The provisions of S. 3388 are identical with those of H. R. 8501, except that the latter provides without qualification for determination of the fair market value by the Administrator; whereas the former requires that the Administrator shall make such determination by computation of the average of two existing appraisals dated July 1954, and October 1955.

This agency would object to a determination of fair market value in the manner proposed in S. 3388 because determination of fair value by averaging the amounts set by several appraisals is not considered an acceptable appraisal practice and, in any event, the appraisals referred to, being outdated as they are, do not constitute the best available evidence of the present fair market value.

If the bill were amended to provide for determination of fair market value by the Administrator, as specified in H. R. 8501, this agency would not object to its enactment.

Attention is invited to a discrepancy of language in section 2 of the bill in its present form which would result in ambiguity if the bill were enacted as written. Section 2 (a) of the bill requires the Administrator to determine "the fair market value of the real property" (line 6, p. 2), which would include buildings, structures and improvements, while section 2 (b) defines fair market value to be the average of two appraisals of "such land" (lines 14 and 15, p. 2), which might be construed as being exclusive of buildings, structures, and improvements. The two appraisals referred to in the bill actually covered the entire real property; that is, land, buildings, structures, and improvements.

Accordingly, if the bill receives favorable consideration, it is recommended that the word "land" in line 15 on page 2 be deleted and the words "real property" substituted.

The Bureau of the Budget has advised that there is no objection to the submission of this report to your committee.

Sincerely yours,

FRANKLIN G. FLOETE,
Administrator.

The amendments suggested by the Bureau of the Budget and the Administrator of General Services were incorporated in the bill as reported by the committee.

APRIL 4, 1956.

Hon. JOHN L. MCCLELLAN,
Chairman, Committee on Government Operations,
United States Senate.

DEAR MR. CHAIRMAN: Reference is made to your request to the Secretary of Defense for the views of the Department of Defense with respect to S. 3388, 84th Congress, a bill to provide for the conveyance of certain real property of the United States to the port of Port Townsend, Wash. The Secretary of Defense has delegated to the Department of the Army the responsibility for expressing the views of the Department of Defense thereon.

The purpose of the bill is to authorize and direct the Administrator of General Services to convey to the port of Port Townsend, Wash., all of the right, title, and interest of the United States in and to certain real property consisting of 30.62 acres, more or less, located in Jefferson County, Wash., comprising a part of the real property commonly known as Hudson Point, formerly used by the Department of the Army for amphibious training purposes. The bill provides for the payment of an amount equal to the fair market value of the property as determined by the Administrator in accordance with the provisions of the bill; for the reservation of all minerals, including oil and gas; and the imposition of such additional terms, conditions, reservations, and restrictions as the Administrator determines to be necessary to protect the interests of the United States.

The Department of the Army on behalf of the Department of Defense interposes no objection to this bill.

The Department of the Army established the Hudson Point Military Reservation in 1947 on the 30.62 acres of Government-owned land identified in section 1 of H. R. 8501 to provide facilities for amphibious training purposes. The main portion of the installation embracing 29.14 acres was acquired and developed by the United States Public Health Service as a quarantine station which had been discontinued at the time the use of the facility was made available to the Department of the Army by the Federal Works Agency in 1947. The remainder of the installation, consisting of 1.48 acres, was transferred to the Department of the Army by the Department of the Navy in 1947. In 1953 it was determined that this installation was no longer required by the Department of Defense and, in March 1954, the property was reported to the General Services Administration for other Federal use or disposition as surplus property. Disposition of the property in the manner provided in S. 3388 would not adversely affect the Department of Defense.

The enactment of this measure will not involve the expenditure of any Department of Defense funds.

A similar report on H. R. 8501, 84th Congress, a similar bill has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Bureau of the Budget advised with respect to a similar report on a similar bill, H. R. 8501, 84th Congress, that there was no objection to the submission of that report to the Congress.

Sincerely yours,

WILBER M. BRUCKER, *Secretary of the Army.*

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Calendar No. 2194

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2171

AMENDING THE PUBLIC BUILDINGS PURCHASE CONTRACT ACT OF 1954 AND THE POST OFFICE DEPARTMENT PROPERTY ACT OF 1954

JUNE 11, 1956.—Ordered to be printed

Mr. CHAVEZ, from the Committee on Public Works, submitted the following

REPORT

[To accompany S. 3866]

The Committee on Public Works, to whom was referred the bill (S. 3866) to facilitate the making of lease-purchase agreements by the Administrator of General Services under the Public Buildings Act of 1949, as amended, and by the Postmaster General under the Post Office Department Property Act of 1954, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The purpose of this bill is to amend Public Law 519, 83d Congress, (the Lease-Purchase Act), by deleting the requirement for approval of purchase-contract agreements by the Director of the Bureau of the Budget, and adding a requirement that the project statement by said Director shall be based on budgetary and related considerations, and not deemed to constitute approval of specific terms or provisions of any proposed agreement or of the selection of any particular contractor or lessor.

STATEMENT

Public Law 519, approved July 22, 1954 (68 Stat. 518), which authorized the Administrator of General Services and the Postmaster General to enter into lease-purchase agreements, requires action by the Director of the Bureau of the Budget at two distinct stages: (1) In connection with congressional approval of proposed lease-purchase projects which must be obtained before an appropriation may be made; and (2) in connection with the agreements proposed to be

entered into after the Congress has approved specific projects and appropriated funds for making payments thereunder.

The existing law provides that no appropriation shall be made for any lease-purchase project for the General Services Administration or the Post Office Department, respectively, unless such project has been approved by resolutions of the Committees on Public Works of the Senate and the House of Representatives. For the purpose of securing such approval, there must be transmitted to the committees a prospectus of each proposed project, including eight specific items, one of which is:

> (8) A statement in writing by the Director of the Bureau of the Budget that the project is necessary and in conformity with the policy of the President.

The existing law further provides that no lease-purchase agreement shall be executed by the Administrator of General Services or the Postmaster General, respectively—

> Unless such agreement has been approved by the Director of the Bureau of the Budget, as evidenced by a written statement of such officer to the effect that the execution of such agreement is necessary and is in conformity with the policy of the President.

The Department of Justice has expressed the view that under the act the Director of the Bureau of the Budget must consider the general desirability of lease-purchase agreements, their necessity and conformity with the policy of the President, and that he must also examine, consider, and approve in detail the specific terms and provisions of such agreements, with a similar scope of approval required as to the provisions of lease-purchase projects.

This interpretation of the act would result in overlapping and duplication of the functions of the Director of the Bureau of the Budget in one respect and the Administrator of General Services and the Postmaster General in another. It is neither efficient nor economical for the Director of the Bureau of the Budget to review the specific details of contracts which are executed by administrative officials. To do so would require additional staff and funds, and would probably result in delaying the progress of the program.

The Bureau of the Budget has estimated that the additional staff that would be required to make an independent examination and analysis of each lease-purchase agreement proposed to be entered into by the General Services Administration and the Post Office Department under the terms of Public Law 519 would require an appropriation of about $100,000 annually.

The committee is of the opinion that in this case the Bureau of the Budget should be properly concerned with budgetary considerations and other related matters, such as the need for space, the limit of cost, and the economic and administrative justification for the project, and not with the administrative and operating details relative to the terms and conditions of specific contracts or the selection of particular contractors.

The committee believes that the requirement that the Director of the Bureau of the Budget determine whether each project is necessary and in conformity with the program of the President

should be preserved, but that the requirement that the Director review in detail the specific terms of the agreements made to carry out each project should be eliminated.

The committee therefore recommends enactment of S. 3866 in the interest of efficient and economical administration and to avoid overlapping and duplication of functions.

The comments of the Bureau of the Budget on S. 3866 are as follows:

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D. C., May 25, 1956.

Hon. DENNIS CHAVEZ,
Chairman, Committee on Public Works,
United States Senate, Senate Office Building,
Washington, D. C.

MY DEAR MR. CHAIRMAN: This is in response to your letter of May 17, 1956, requesting the views of this office on S. 3866, to facilitate the making of lease-purchase agreements by the Administrator of General Services under the Public Buildings Act of 1949, as amended, and by the Postmaster General under the Post Office Department Property Act of 1954, and for other purposes.

The so-called Lease-Purchase Act of July 22, 1954 (68 Stat. 518), which authorized the making of lease-purchase arrangements by the Administrator of General Services and by the Postmaster General, requires action by the Director of the Bureau of the Budget at two distinct stages—first, in connection with the congressional approval of proposed lease-purchase projects which must be obtained before an appropriation may be made; and second, in connection with the agreements proposed to be entered into after the Congress has approved specific projects and appropriated funds for making payments thereunder.

With respect to the first action by the Director—involving consideration of lease-purchase projects—the pertinent provisions are subparagraph 8 of section (e) of subsection 411 of the Public Buildings Act of 1949, which was added by the 1954 act, and subparagraph 8 of subsection (g) of section 202 of the Post Office Department Property Act of 1954. These subsections provide that no appropriation shall be made for any lease-purchase project for the General Services Administration or the Post Office Department, respectively, unless such project has been approved by resolutions of the Committees on Public Works of the two Houses. For the purpose of securing such approval, there must be transmitted to the Public Works Committees a prospectus of each proposed project, including eight specific items, the last of which is "(i) a statement in writing by the Director of the Bureau of the Budget that the project is necessary and in conformity with the policy of the President."

With respect to the second action by the Director—involving consideration of proposed lease-purchase agreements—the pertinent provisions are the first sentence of subsection 411 (e) of the Public Buildings Act of 1949, and the first sentence of subsection (g) of section 202 of the Post Office Department Property Act of 1954. These subsections provide that no proposed lease-purchase agreement shall be executed by the Administrator of General Services or the Postmaster General, respectively, "unless such agreement has been ap-

proved by the Director of the Bureau of the Budget, as evidenced by a written statement of such officer to the effect that the execution of such agreement is necessary and is in conformity with the policy of the President."

The Department of Justice in a letter of March 8, 1956, from Assistant Attorney General Rankin to the Director of the Bureau of the Budget, has expressed the view that under the act the Director of the Bureau of the Budget "must consider not only the general desirability of lease purchase *agreements*, their necessity and conformity with the policy of the President, but must also examine, consider, and approve in detail the specific terms and provisions of such *agreements*", and also that "a similar scope of approval by the Director is required as to the provisions of lease purchase *projects*." [Italic supplied.]

This construction of the act would result in overlapping and duplication of the functions of the Director of the Bureau of the Budget on the one hand and the Administrator of General Services and the Postmaster General on the other. It is neither efficient nor economical for the Director of the Bureau of the Budget to review the specific details of contracts which are to be executed by the Administrator or the Postmaster General. Such a diffusion of responsibility is poor management practice and will inevitably result in delaying progress under the program. Moreover, the Bureau of the Budget has neither the staff required to examine and approve these proposed agreements in detail nor the funds with which to obtain such a staff.

Under present law, the Postmaster General or the Administrator of General Services must first prepare detailed plans and specifications for a project; draft the necessary contract provisions, including the details of financing arrangements; evaluate the bids received, and select the contractor. The Director of the Bureau of the Budget must then review each step in the process, although an executive department or agency has already satisfied itself on all details of the procedure. Aside from the obvious duplication and waste of effort involved in this procedure, it is estimated that the Bureau of the Budget would require, as a minimum, $100,000 on an annual basis to support the additional staff needed to make an independent examination and analysis of each lease-purchase agreement proposed to be entered into by the General Services Administration or the Post Office Department under the 1954 act.

The proper role of the Bureau of the Budget in this area involves budgetary considerations and other related matters, such as the need for the space, the limit of cost, and the economic and administrative justification for the project. The Bureau of the Budget has no proper concern with the administrative and operating details which would involve it in the terms and conditions of specific contracts or the selection of particular contractors.

S. 3866 would repeal the two sentences which require the Director of the Bureau of the Budget to approve each specific lease-purchase agreement proposed to be entered into by the Administrator of General Services or the Postmaster General. It would retain the requirement that the Director of the Bureau of the Budget approve each lease-purchase project before it is considered by the respective Committees on Public Works, but would add language limiting his function to budgetary and related considerations. It would also make it clear that the statement by the Director that a project is

necessary and in conformity with the policy of the President would not constitute approval by the Director of the specific terms of any proposed agreement or of the selection of any particular contractor or lessor.

The net effect of S. 3866 would be to preserve the requirement that the Director of the Bureau of the Budget determine whether each project is necessary and in conformity with the program of the President, and to eliminate the requirement that the Director review in detail the specific terms of the agreement made to carry out each project. In the interest of efficient and economical administration and to avoid overlapping and duplication of functions, we strongly recommend favorable action on S. 3866.

Sincerely yours,

PERCIVAL F. BRUNDAGE, *Director.*

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman:

PUBLIC LAW 519—83D CONGRESS

To amend the Public Buildings Act of 1949 to authorize the Administrator of General Services to acquire title to real property and to provide for the construction of certain public buildings thereon by executing purchase contracts; to extend the authority of the Postmaster General to lease quarters for post-office purposes; and for other purposes

TITLE I—GENERAL SERVICES ADMINISTRATION

SEC. 101. The Public Buildings Act of 1949 is amended by (1) redesignating section 411 thereof as section 412, and (2) inserting, immediately after section 410 thereof, the following new section:

"SEC. 411. * * *

"(e) [No proposed purchase contract agreement shall be executed under this section unless such agreement has been approved by the Director of the Bureau of the Budget, as evidenced by a written statement of such officer to the effect that the execution of such agreement is necessary and is in conformity with the policy of the President.]

* * * * * * *

"(8) a statement in writing by the Director of the Bureau of the Budget that the project is necessary and in conformity with the policy of the President. *Such statement by the Director shall be based on budgetary and related considerations and shall not be deemed to constitute approval by the Director of the specific terms or provisions of any proposed agreement or of the selection of any particular contractor or lessor.*

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TITLE II—POST OFFICE DEPARTMENT

* * * * * * *

SEC. 202. * * *

(g) [No proposed lease-purchase agreement shall be executed und r this section unless such agreement has been approved by the Director

of the Bureau of the Budget, as evidenced by a written statement of such officer to the effect that the execution of such agreement is necessary and is in conformity with the policy of the President.]

* * * * * * *

(8) a statement in writing by the Director of the Bureau of the Budget that the project is necessary and in conformity with the policy of the President. *Such statement by the Director shall be based on budgetary and related considerations and shall not be deemed to constitute approval by the Director of the specific terms or provisions of any proposed agreement or of the selection of any particular contractor or lessor.*

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Calendar No. 2195

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2172

DIRECTING THE SECRETARY OF THE INTERIOR TO CONDUCT A STUDY AND INVESTIGATION OF INDIAN EDUCATION IN THE UNITED STATES

JUNE 11, 1956.—Ordered to be printed

Mr. GOLDWATER, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany S. J. Res. 110]

The Committee on Interior and Insular Affairs, to whom was referred the resolution (S. J. Res. 110) directing the Secretary of the Interior to conduct a study and investigation of Indian education in the United States, having considered the same, report favorably thereon with amendments and recommend that the resolution do pass.

The amendments are as follows:

On page 1, line 6, delete "United States" and insert "continental United States and Alaska."

On page 1, line 11, delete the last sentence of section 1.

On page 2, line 5, after the words "is authorized" delete the remainder of section 2 and insert in lieu thereof "to enter into contracts in accordance with the provisions of the Johnson-O'Malley Act of June 4, 1936 (49 Stat. 1458; 25 U. S. C. 452)."

On page 2, lines 12 and 13, delete "the effective date" and substitute "funds are made available to carry out the purposes".

EXPLANATION OF THE JOINT RESOLUTION

The purpose of Senate Joint Resolution 110 as amended is to authorize and direct the Secretary of the Interior to conduct a study and investigation of Indian education in the United States and Alaska. The study would include an investigation of (1) the education problems of Indian children from non-English-speaking homes, and (2) the possibility of establishing a more orderly, equitable, and acceptable program for transferring Indian children to public schools.

The study authorized under Senate Joint Resolution 110 would be

conducted in large measure by a competent organization or organizations independent of the Federal Government.

Section 2 of the joint resolution, as amended, extends the contractual authority of the Secretary of the Interior under the Johnson-O'Malley Act (49 Stat. 1458), in order that he may contract with an independent organization to make the necessary studies. Not later than 2 years after funds are made available to carry out the purposes of the joint resolution, the Secretary of the Interior will submit a complete report of the results of the study to the Congress together with his recommendations.

The committee suggests that in the formulation of the contracts contemplated by this act there should be included a provision insuring that the studies performed shall be made by persons having at least the minimum requirement of a degree in education from an accredited college or university.

The basic objective of the Indian Bureau educational program is to secure for all Indian children the educational opportunities provided for other citizens. Accomplishment of this objective requires the operation of Federal schools where public schools are not available to Indian children and financial assistance to States where relatively large numbers of Indian children attend public schools.

The appropriation requested for Indian education during fiscal year 1957 exceeds $42 million. As more Indian children enter the school systems, it may be expected that annual appropriations will increase. In view of the complexity of the overall Indian education program, the committee believes a comprehensive survey of the subject would be beneficial to the Congress, the States, and the Indians, and would provide the guidelines for the establishment of efficient and economical long-range policies in Indian education.

The favorable reports of the Department of the Interior, the Department of Health, Education, and Welfare, and the Bureau of the Budget are set forth below.

UNITED STATES DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., May 2, 1956.

Hon. JAMES E. MURRAY,
Chairman, Committee on Interior and Insular Affairs,
United States Senate, Washington, D. C.

MY DEAR SENATOR MURRAY: Your committee has requested a report on the joint resolution (S. J. Res. 110) directing the Secretary of the Interior to conduct a study and investigation of Indian education in the United States.

We recommend that the joint resolution be enacted with the amendments suggested below.

The joint resolution directs the Secretary of the Interior to conduct a study and investigation of Indian education in the United States, and to submit to the Congress within 2 years after the effective date of the joint resolution a complete report of the results of the study and investigation, together with such recommendations as the Secretary may deem desirable. For the purpose of the study the procurement of temporary or intermittent services of experts, consultants, or organizations thereof in accordance with the act of August 2, 1946 (60 Stat. 10) is authorized.

The Department has recently begun to prepare plans for conducting a study of the nature and scope envisioned by the joint resolution. These plans are now in rudimentary form, and it is anticipated that a great deal of study, effort, and time must be spent before the Department can settle on a set of standards that will help ensure a creditable survey. Tentatively, it is thought that the survey ought to be conducted by an organization independent of the Federal Government under a contract that would contain standards and guidelines in great enough detail to permit a study of sufficient scope and competence to serve as a reliable guide to the Congress, to the Department, and to the States for the establishment of efficient and economical long-range plans and policies in Indian education. The study plans will be drawn in consultation with appropriate agencies of the States which have significant Indian populations.

We feel that a survey of this type would help the Federal Government to carry out its responsibilities to Indians in the field of education and would encourage more uniform approaches to Indian education by the Federal Government and the States. The need for the survey has been recognized by several States and has been put in articulate form by the Subcommittee on Indian Education of the Arizona White House Conference on Education. The subcommittee, in its report of October 17, 1955, cited some of the problems of Indian education and recommended "an independent over-all study of Indian education." As States with large Indian populations are sometimes seriously handicapped in meeting their responsibility for providing educational services for Indian children, and as the Bureau of Indian Affairs is assisting some States both directly and indirectly in meeting such responsibilities, and as there is a heightened national interest in education, it appears that this is an especially propitious time to undertake a comprehensive survey of the problem.

We recommend the following amendments to the joint resolution:

1. On page 1, line 6, delete "United States" and substitute "continental United States and Alaska". Alaska should be included within the scope of the survey.

2. On page 2, line 5, after "is authorized", delete the remainder of section 2 and insert in lieu thereof "to enter into contracts in accordance with the provisions of the Johnson-O'Malley Act of June 4, 1936 (49 Stat. 1458, 25 U. S. C. 452)." The present language of section 2, which authorizes the procurement of the services of experts, consultants, or organizations thereof in accordance with the provisions of section 15 of the act of August 2, 1946 (60 Stat. 810), is superfluous because section 15 is of general applicability and will apply in any event. It is desirable, however, that the Secretary's contract authority under the Johnson-O'Malley Act be extended to the study and investigation authorized by this joint resolution in order that he may contract with an independent organization to do the entire job without regard to the compensation paid by such organization to the individual members of its staff.

3. On page 2, lines 12 and 13, delete "the effective date" and substitute "funds are made available to carry out the purposes." In order to undertake a survey of the scope intended, it will be necessary to obtain an appropriation for that purpose, and it will

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take 2 years after the appropriation is available to complete a comprehensive survey and submit a report to the Congress.

It is not possible to give at this time an estimate of the amount of funds which will be required to carry out the study and investigation. Considerable additional planning will be necessary before a reasonable estimate of the costs can be made.

The Bureau of the Budget has advised that there is no objection to the presentation of this proposed report to the Congress.

Sincerely yours,

F. E. WORMSER,
Assistant Secretary of the Interior.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Washington, D. C., April 20, 1956.

Hon. JAMES E. MURRAY,
Chairman, Committee on Interior and Insular Affairs,
United States Senate.

DEAR MR. CHAIRMAN: This letter is in response to your request of January 12, 1956, for a report on Senate Joint Resolution 110, a joint resolution directing the Secretary of the Interior to conduct a study and investigation of Indian education in the United States.

The resolution would authorize and direct the Secretary of the Interior, acting through the Bureau of Indian Affairs, to conduct a study and investigation of Indian education in the United States, including (1) the education problems of Indian children from non-English-speaking homes, and (2) the possibility of establishing a more orderly, equitable, and acceptable program for transferring Indian children to public schools. The resolution would authorize the appropriation of "such sums as may be necessary" for this purpose, would authorize the Secretary to procure the services of experts, consultants, or organizations thereof and reimburse them for travel, subsistence, and other necessary expenses, and would require the Secretary to submit the report and recommendations resulting from the study to the Congress not later than 2 years after the effective date of the resolution.

The subject of this resolution, namely, Indian education, is a matter of considerable interest to this Department. This interest arises not only from the general responsibility of the Office of Education in promoting the cause of education, of which Indian education is a part, but more particularly from the specific statutory responsibilities of the Office of Education in certain problems of Indian education in the administration of Public Laws 815 and 874, 81st Congress, as amended.

This Department concurs fully as to the desirability of a comprehensive study and investigation of Indian education at the present time. Consequently the Department is wholly in accord with the stated objective of Senate Joint Resolution 110. The Department believes, however, that in order for the findings of such a study to be of maximum usefulness to all parties concerned with this problem, and to the Congress, it is desirable that the study be broadly based and as objective as possible.

It is our understanding from informal staff discussions with representatives of the Department of the Interior that it is the intention of that Department, if the resolution is adopted, to have the survey

conducted in large measure under contract with some competent organization or organizations independent of the Federal Government. The committee may want to consider some modification of the wording of the resolution which would incorporate such an understanding within the terms of the resolution itself.

Subject to this reservation, this Department favors the resolution and recommends its enactment.

The Bureau of the Budget advises that it perceives no objection to the submission of this report to your committee.

Sincerely yours,

HEROLD C. HUNT,
Acting Secretary.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D. C., April 18, 1956.

Hon. JAMES E. MURRAY,
Chairman, Committee on Interior and Insular Affairs,
United States Senate, Washington, D. C.

MY DEAR MR. CHAIRMAN: This is in response to your request for the views of the Bureau of the Budget with respect to the joint resolution (S. J. Res. 110) directing the Secretary of the Interior to conduct a study and investigation of Indian education in the United States.

In a report he is submitting to your committee on this measure, the Secretary of the Interior indicates that his Department has recently begun to prepare plans for a project of the type authorized by Senate Joint Resolution 110. The plans tentatively call for the study to be conducted under contract with an organization independent of the Federal Government, and language to accomplish this procedure is included among the several amendments recommended in the Secretary's report.

You are advised that the Bureau of the Budget would have no objection to the enactment of Senate Joint Resolution 110 if amended in accordance with recommendations of the Secretary of the Interior.

Sincerely yours,

ROBERT E. MERRIAM,
Assistant to the Director.

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Calendar No. 2214

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2191

AUTHORIZING THE ADMINISTRATOR OF GENERAL SERVICES TO CONVEY CERTAIN LANDS IN THE STATE OF RHODE ISLAND TO THE TOWN OF NORTH KINGSTOWN, R. I.

JUNE 11, 1956.—Ordered to be printed

Mr. MCCLELLAN, from the Committee on Government Operations, submitted the following

REPORT

[To accompany S. 3195]

The Committee on Government Operations, to whom was referred the bill (S. 3195) to authorize the Administrator of General Services to convey certain lands in the State of Rhode Island to the town of North Kingstown, R. I., having considered the same, report favorably thereon, without amendment, and recommend that the bill do pass.

PURPOSE

The purpose of this bill is to authorize and direct the Administrator of General Services to convey by quitclaim deed all right, title, and interest of the United States to approximately 3.4 acres of land, including improvements thereon, to the town of North Kingstown, R. I. Such land is part of a tract formerly held by the Department of the Navy and declared surplus to the needs of the Navy. The town of North Kingstown, R. I., agrees to pay to the Administrator of General Services as consideration for the land conveyed an amount equal to 50 percent of its fair market value as determined by the Administrator after appraisal of said land. The bill further provides if the land conveyed is not used for public purposes all right, title, and interest shall revert to the United States.

NEED FOR LEGISLATION

The property requested is to be used for a site for a new building to house the North Kingstown police, fire, and other departments of the local government.

New and modern facilities are necessary to replace outmoded and inadequate quarters, even for normal operation; in time of emergency

the present building would be completely useless. In both the 1938 and 1954 hurricanes, the present building was flooded to such an extent that it forced temporary evacuation of the police department and other city administrative offices.

The committee of taxpayers appointed by the city have made a thorough study of the present facilities, and recommended building a new combined fire and police department on higher grounds to avoid damage from future floods and hurricanes. The site approved by the committee as most suitable is described in detail in S. 3195.

The Quonset Naval Air Station and the Davisville Supply Depot are located in North Kingstown. The taxpayer committee reports that the servicemen and families and the civilian employees and their families will benefit by a true fire and police protection if S. 3195 is approved. The committee further states that North Kingstown is unable financially to complete necessary improvements to the existing buildings, or to enter into competitive bidding for the land needed for the proposed site for the new building to house the fire and police departments.

BACKGROUND

The following report was submitted to Senator Green, sponsor of S. 3195, by the Taxpayers Committee of North Kingstown, in support of the proposed legislation:

> In March 1955, the taxpayers of North Kingstown, R. I., appointed a committee to investigate the need for suitable housing for fire, police, and any other departments of the town administration except schools, and to make recommendations to the taxpayers. After a thorough study, it was readily apparent that there is an urgent need for new housing for both fire and police departments.
>
> The fire department is housed in a wooden building with insufficient space for its equipment. In both the 1938 and 1954 hurricanes, the water flooded the building forcing temporary evacuation and causing considerable damage to some of its equipment. The police department is housed in equally poor conditions. It is located on the ground floor of a building not over 100 feet from Wickford Cove next to the bridge on Route 1. During the above-mentioned emergencies, what should have been the nerve centers of the town administration were useless. The police quarters are so inadequate that there are no means of properly separating juveniles from the more dangerous criminals.
>
> Faced with these facts, the committee has proposed to solve this housing problem by building a combination police and fire station. The committee viewed all land that could possibly be used to build such a structure with the following requirements in mind:
>
> 1. It had to be near enough to the center of Wickford to satisfy insurance requirements. The Wickford area contains the largest population group in town including a Navy housing project.
>
> 2. It had to be on high ground to avoid hurricane flooding. The best available piece of property that meets these specifications is the 3.4-acre tract of land adjacent to the Federal housing project, in Wickford.

In North Kingstown is located both Quonset Naval Air Station and Davisville Supply Depot. Since these bases were established in World War II, there has been a tremendous increase in population in the town. This has put a heavy strain on the town's facilities such as schools, fire and police protection. The committee feels that if bill S. 3195 introduced by Senator Theodore F. Green is approved, not only the town but also the Federal Government will benefit. The town will be able to give better protection to its entire population in normal times as well as in emergencies. The Federal Government will receive improved protection for the servicemen and their families and its civilian employees, both of which groups constitute a considerable portion of the population of the town.

The town and naval authorities have, over the years, worked together to solve the daily problems which arose from the growth of Quonset and Davisville. In emergencies such as the hurricanes of 1954, the Navy was a great help to the town; conversely during the Bennington disaster, the town facilities assisted the Navy. The committee feels that by being permitted to purchase this land as specified in Senator Green's bill, this spirit of cooperation will be increased.

With a proposal now before the town to build a $2 million school, the committee does not feel it can enter a competitive bid against private interests and acquire this land. It does feel that by purchasing this unused land, according to the terms specified in Senator Green's bill, the Federal Government will lose nothing and will receive better protection for those who have served it so loyally.

AGENCY COMMENTS

The Administrator of General Services submitted a report on S. 3195 on May 28, 1956, in which it is stated that the agency would not favor the enactment of the bill as a special exception to the general policy now prescribed by statute, that surplus property be disposed of by competitive bidding to the highest bidder, unless the bill is amended to provide for payment of fair value, in which case the provision for reversion of title to the United States could be deleted. The full text of the report from GSA follows:

GENERAL SERVICES ADMINISTRATION,
Washington, D. C., May 28, 1956.

Re S. 3195.

Hon. JOHN L. MCCLELLAN,
Chairman, Committee on Government Operations,
United States Senate, Washington, D. C.

DEAR MR. CHAIRMAN: Further reference is made to your letter of February 17 requesting the views of this agency on S. 3195 for the conveyance of certain land to the town of North Kingstown, R. I.

The property in question is a 3.4-acre tract located on Post Road in North Kingstown, originally acquired by the Housing and Home Finance Agency as part of a Federal housing project, all of which,

including the tract in question, was transferred by that agency in August 1953, to the Department of the Navy, which reported it excess to GSA in December 1955. It is our understanding that the town desires to acquire the property as a site for a fire and police station.

The bill would authorize and direct the Administrator of General Services to convey the property to the town of North Kingston in consideration of the payment by the town of 50 percent of its fair market value subject to the condition that if the land should cease to be used for public purposes it should revert to the United States.

Under the Federal Property and Administrative Services Act of 1949, the disposition of surplus real property, with certain exceptions such as disposals for public health, educational, park, and recreational purposes, shall be made by competitive bids to the highest bidder even though one of the bidders seeking the property is a local governmental unit. It should be noted that a disposal in which future use of the property by the grantee is limited only generally to "public purposes" is not one of the exceptions provided for in the act.

From time to time special legislation has been enacted to effect a departure from that general rule because of the equity in a particular case. So far as this agency has been informed there are no equities in favor of the town of North Kingston which would justify a departure from such rule in this case.

Accordingly, unless the town can show a public benefit similar to those which the Federal Property and Administrative Services Act of 1949 and other acts specify as a basis for disposal of property at a discount based on fair value, this agency would not favor the enactment of S. 3195 as a special exception to the general policy now prescribed by statute that surplus property be disposed of by competitive bidding to the highest bidder.

No objection would be interposed to enactment of the bill, however, if it were amended to provide for payment of fair value, and to delete the provision for reversion of title to the United States.

The Bureau of the Budget has advised that there is no objection to the submission of this report to your committee.

Sincerely yours,

FRANKLIN G. FLOETE, *Administrator.*

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Calendar No. 2215

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2192

AMENDING SECTION 158 OF THE REVISED STATUTES OF THE UNITED STATES, AS AMENDED, SO AS TO INCLUDE THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE AMONG THE EXECUTIVE DEPARTMENTS THERE LISTED

JUNE 11, 1956.—Ordered to be printed

Mr. MCCLELLAN, from the Committee on Government Operations, submitted the following

REPORT

[To accompany S. 3768]

The Committee on Government Operations, to whom was referred the bill (S. 3768) to amend section 158 of the Revised Statutes of the United States, as amended, so as to include the Department of Health, Education, and Welfare among the executive departments there listed, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The purpose of this bill, introduced in the Senate at the request of the Secretary of Health, Education, and Welfare, is to add the Department, established by Reorganization Plan No. 1 of 1953, to the list of executive departments in section 158 of the Revised Statutes (5 U. S. C. 1). Plan No. 1 of 1953 failed to provide for the inclusion of the Department in section 158 of the Revised Statutes. Approval of S. 3768 would give the Department full statutory parity with other executive departments. The bill makes adequate provision to assure that nothing therein would be inconsistent with Reorganization Plan No. 1 of 1953, or with various other statutes applicable to the Department, or with laws which are antiquated and not generally applicable to other departments.

Section 2 provides for the appointment by the President of a General Counsel, with Senate confirmation, who shall be the chief legal officer of the Department, and act as Secretary during the absence or disability, or in the event of a vacancy in the office, of the Secretary and of the Under Secretary and the Assistant Secretaries. The Secretary of Health, Education, and Welfare states that this provision is desir-

able to conform the status of this position with that of the chief legal officers of other executive departments having comparable functions and responsibilities.

NEED FOR LEGISLATION

In transmitting this proposed legislation to the Senate, the Secretary of Health, Education, and Welfare submitted the following communications in support thereof:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
April 23, 1956.

Hon. RICHARD M. NIXON,
The President of the Senate.

DEAR MR. PRESIDENT: Enclosed for your consideration is a draft of a bill to add the Department of Health, Education, and Welfare to the list of executive departments in section 158 of the Revised Statutes (5 U. S. C. 1) and to provide for a Presidentially appointed General Counsel of the Department.

The Department of Health, Education, and Welfare was established by Reorganization Plan No. 1 of 1953, the effective date of which was accelerated to April 11, 1953, by Public Law 13, 83d Congress. Section 158 of the Revised Statutes, which lists the executive departments of the Government, has not, since the establishment of our executive department by reorganization plan, been amended to include this Department in the listing. Through its failure to be listed in this section various other provisions of laws applicable to other executive departments do not apply to this Department, notably title IV of the Revised Statutes and certain other provisions of law referring specifically to executive departments listed in section 158 (or in 5 U. S. C. 1).

We believe that the listing of this Department in section 158 of the Revised Statutes is desirable in order to put the Department of Health, Education, and Welfare on full statutory parity with all other executive departments now enumerated in that section.

Subsection (b) of the first section of the enclosed draft bill would prevent the listing of this Department in section 158 from having the effect of making applicable to this Department various provisions of title IV of the Revised Statutes which are inconsistent with Reorganization Plan No. 1 of 1953 or with various other statutes currently administered by, or applicable to, this Department, or which are antiquated and not generally applicable to the other executive departments (having been superseded in their case by later laws).

Illustrative of sections of title IV of the Revised Statutes which are in conflict with Reorganization Plan No. 1 of 1953 are Revised Statutes 177–182 (5 U. S. C. 4–9) relating to the designation of persons to act in case of vacancies in departmental offices, which are inconsistent with provisions of section 2 of the plan which set forth the circumstances under which our Under Secretary and Assistant Secretaries shall serve as Acting Secretary.

Similarly, there are other provisions of title IV of the Revised Statutes which would appear to be inconsistent with the provisions of other laws administered by the new Department. Illustrative of these provisions are Revised Statutes 184, 187 (5 U. S. C. 94, 98)

relating to the examination and subpenaing of witnesses which conflict with the provisions authorized for examination of witnesses under the Social Security Act. Title 42, United States Code section 405 (d), (e), and (f); and Revised Statute 178 (5 U. S. C. 5) relating to the designation of persons to act in case of vacancies in certain subordinate departmental offices which conflict with the provisions of the Public Health Service Act of 1944 on the same subject matter (42 U. S. C. A. 206).

An example of an antiquated provision not now generally applicable to the executive departments is Revised Statute 176 (5 U. S. C. 44) which requires the heads of executive departments to appoint disbursing clerks authorized by law; with certain exceptions not applicable to this Department, all such disbursement functions are now centralized in the Treasury Department.

Section 1 (b) of the enclosed draft bill would make it clear that the listing of our Department in section 158 of the Revised Statutes would not be construed to make applicable to the Department any provision of law inconsistent with Reorganization Plan No. 1 of 1953 or otherwise supersede or limit any functions or authorities which the Department has under existing laws.

Section 2 of the bill would provide for a General Counsel of the Department to be appointed by the President with Senate confirmation. This provision is desirable to conform the status of this position with that of the chief legal officers of other executive departments having comparable functions and responsibilities.

We shall appreciate it if you will be good enough to refer the enclosed draft bill to the proper committee for consideration.

The Bureau of the Budget advises that it perceives no objection to the submission of this proposed legislation to the Congress for its consideration.

Sincerely yours,

(Signed) M. B. FOLSOM, *Secretary.*

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
May 28, 1956.

Mr. WALTER L. REYNOLDS,
Chief Clerk and Staff Director,
Committee on Government Operations,
United States Senate, Washington, D. C.

DEAR MR. REYNOLDS: In accordance with our telephone conversation of today, I am enclosing a chart which gives pertinent information about the chief legal officers of the various departments.

You will note that of the 9 departments (Department of Justice not included for obvious reasons) 6 have chief legal officers appointed by the President, 2 of the 6 are compensated the same as assistant secretaries, and a third, though it is provided he shall rank equally with assistant secretaries, is compensated at a grade GS–18.

If you desire further information, please let me know.

Sincerely yours,

PARKE M. BANTA, *General Counsel.*

Chief legal officers of executive departments [1]

Department	Title	Appointed by	Salary	Salary of Assistant Secretary	Status	Applicable statute
Commerce	General Counsel	President (w/Senate)	$15,000	$15,000	Shall have compensation of Assistant Secretaries.	5 U. S. C., sec. 592b.
Defense	do	do	15,000	15,000	Shall receive compensation of Assistant Secretaries.	Reorganization Plan 6 of 1953.
State	Legal adviser	do	14,800	15,000	Shall rank equally with Assistant Secretaries of State.	5 U. S. C., sec. 152a; 5 U. S. C., sec. 151b.
Interior	Solicitor	do	14,800	15,000		5 U. S. C., sec. 483a.
Labor	do	do	14,800	15,000		5 U. S. C., sec. 613b.
Treasury	General Counsel	do	14,800	15,000		5 U. S. C., sec. 248a.
Agriculture	do	Secretary	14,800	15,000		
Health, Education, and Welfare	do	do	14,800	15,000		
Post Office	Solicitor	Postmaster General	14,800	15,000		
Navy	General Counsel	Secretary	14,800	15,000		
Air Force	do	do	13,000	15,000		
Army	Department counselor	do	13,000	15,000		

[1] Excluding the Department of Justice and including the military Departments of the Army, Navy, and Air Force.

CHANGES IN EXISTING LAW

In compliance with section 4 of rule 29 of the Standing Rules of the Senate, changes in existing law made by this bill are shown as follows (new material is printed in italics, existing law in which no change is proposed is shown in Roman):

SECTION 158 OF THE REVISED STATUTES (5 U. S. C. 1)

The provisions of this title shall apply to the following executive departments:

First. The Department of State.
Second. The Department of Defense.
Third. The Department of the Treasury.
Fourth. The Department of Justice.
Fifth. The Post Office Department.
Sixth. The Department of the Interior.
Seventh. The Department of Agriculture.
Eighth. The Department of Commerce.
Ninth. The Department of Labor.
Tenth. The Department of Health, Education, and Welfare.

EXISTING LAW	PENDING BILL
Reorganization Plan No. 1 of 1953 (18 F. R. 2053, 67 Stat. 631)	
* * * * *	
SEC. 2. *Under Secretary and Assistant Secretaries.*—There shall be in the Department an Under Secretary of Health, Education, and Welfare and two Assistant Secretaries of Health, Education, and Welfare, each of whom shall be appointed by the President by and with the advice and consent of the Senate, shall perform such functions as the Secretary may prescribe, and shall receive compensation at the rate now or hereafter provided by law for under secretaries and assistant secretaries, respectively, of executive departments. The Under Secretary (or, during the absence or disability of the Under Secretary or in the event of a vacancy in the office of Under Secretary, an Assistant Secretary determined according to such order as the Secretary shall prescribe) shall act as Secretary during the absence or disability of the Secretary or in the event of a vacancy in the office of Secretary.	*SEC. 2. (a) There shall be in the Department of Health, Education, and Welfare a General Counsel who shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive compensation at the rate now or hereafter provided by law for assistant secretaries of executive departments. The General Counsel shall be the chief legal officer of the Department and shall perform such functions as the Secretary of Health, Education, and Welfare may prescribe.* *(b) The General Counsel shall act as Secretary during the absence or disability, or in the event of a vacancy in the office, of the Secretary of Health, Education, and Welfare and of the Under Secretary and the Assistant Secretaries of Health, Education, and Welfare.*

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Calendar No. 2216

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2193

PROVIDING FOR THE CONVEYANCE OF CERTAIN LAND IN THE CITY OF HOGANSVILLE, GA., TO THE CITY OF HOGANSVILLE

JUNE 11, 1956.—Ordered to be printed

Mr. MCCLELLAN, from the Committee on Government Operations, submitted the following

REPORT

[To accompany H. R. 7896]

The Committee on Government Operations, to whom was referred the bill (H. R. 7896), to provide for the conveyance of certain land in the city of Hogansville, Ga., to the city of Hogansville, having considered the same, report favorably thereon, without amendment, and recommend that the bill do pass.

PURPOSE

The bill would authorize the Administrator of General Services to convey to the city of Hogansville, Ga., all right, title, and interest of the United States in and to certain surplus Government land, upon payment by the city of the sum of $3,000 in consideration thereof. The bill provides for the reversion of title to the United States in the event that use of the land for public purposes should be discontinued at any time within 20 years after conveyance.

NEED FOR LEGISLATION

The land is located near the center of Hogansville, Ga., and has been used for public purposes since 1909, when it was acquired by the Hogansville Women's Club, which agreed to sell the land to the Government with the understanding that it would continue to be used for public purposes. Since the Government has abandoned its plans to erect a post office on the site, both the club and the city council have, by appropriate resolutions, urged that the city be given an opportunity to purchase the property for public uses.

The land, consisting of 26,859.95 square feet within the city of Hogansville, Ga., was acquired by the Government for a post-office site in May 1954 for $2,500. The Hogansville Women's Club agreed

to sell it to the Government for $2,500, but as there was a cloud on the title, condemnation action was necessitated. Plans to erect a post office on the site were soon after abandoned and, about 15 months after its acquisition by the Government, the land was declared excess to Federal needs. Disposition has been held in abeyance by the General Services Administration in order to afford the city of Hogansville the opportunity of purchasing it for public purposes.

HOUSE ACTION

The House Committee on Government Operations stated in its report on H. R. 7896 (H. Rep. No. 2081) that, due to the location of the land and the development of the city around it, private development of the property would be detrimental to the best interests of the city.

H. R. 7896, as originally introduced, provided for conveyance of the property covered therein upon the payment of $1. The House Committee on Government Operations concluded, however, that a consideration of $3,000 would be fair both to the Government and the city of Hogansville, Ga., and so amended the bill.

In further explanation of other amendments, the committee stated:

> On many occasions in the past the committee has enacted legislation which gave States and their political subdivisions preferential rights to purchase surplus Government properties where such properties were to be devoted to public uses. The committee feels that in granting such preferential rights, measures, where appropriate, should be taken to insure that properties so transferred be utilized for public purposes for a reasonable time. To effectuate this policy, H. R. 7896 was amended by adding a new section (sec. 3) which provides for reversion to the United States in the event that use of the land for public purposes is discontinued at any time within the next 20 years following the conveyance authorized by the bill.
>
> By amendment, section 2 of the bill was stricken. This section contained a metes and bounds description of the property to be conveyed. Inaccuracies frequently occur where realty is legislatively described with particularity which may create a cloud on title and cause difficulties in effecting the conveyance. By inserting this amendment the property is specifically identified while the dangers of errors in a statutory metes and bounds description is avoided. The metes and bounds description will, of course, appear in the deed of conveyance.

AGENCY COMMENTS

The Administrator of General Services submitted the following report on S. 2769, an identical bill to H. R. 7896 as originally introduced. (The GSA has advised the committee that the agency would not oppose enactment of H. R. 7896 as amended in the House of Representatives.)

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D. C., May 8, 1956.

Hon. JOHN L. MCCLELLAN,
Chairman, Committee on Government Operations,
United States Senate, Washington, D. C.

MY DEAR MR. CHAIRMAN: This will acknowledge your letter of January 12, 1956, requesting the views of this office with respect to S. 2769, authorizing the Administrator of General Services to convey certain land to the city of Hogansville, Ga.

According to the report of the General Services Administration, the property in question was acquired from the Hogansville Women's Club in 1954 at a cost of $2,500 for use as the site of a post-office building. It was declared surplus to the needs of the Federal Government in 1955 and an independent appraisal in December of that year established the fair market value at $5,500.

On the basis of the above facts, the Bureau fails to see any justification for conveyance of the property to the city of Hogansville for $1 as proposed by S. 2769. If the bill were amended to authorize the sale of the property to the city for a reasonable consideration, the Bureau would have no objection to its enactment.

Sincerely yours,

PERCY RAPPAPORT,
Assistant Director.

GENERAL SERVICES ADMINISTRATION,
Washington, D. C., May 11, 1956.

Re S. 2769.

Hon. JOHN L. MCCLELLAN,
Chairman, Committee on Government Operations
United States Senate, Washington, D. C.

DEAR MR. CHAIRMAN: Further reference is made to your letter of January 12, 1956, requesting the views of this agency on S. 2769, which would authorize the Administrator of General Services to convey to the city of Hogansville, Ga., approximately 26,860 square feet of land situated in said city in consideration of $1.

The subject property was acquired from the Hogansville Women's Club in May 1954 at a cost of $2,500 to be used as a site for a future post office building. Upon determination by the Post Office Department that the property was no longer needed for postal purposes, it was reported to this agency as excess, and by which it was determined to be surplus in November 1955. In December 1955, an independent appraisal established the fair market value of the property at $5,500.

The method and terms of disposal provided for in the bill are in conflict with the provisions of the Federal Property and Administrative Services Act of 1949, which require that disposals of surplus property without restriction on the use to be made of such property be pursuant to competitive bidding at an advertised public sale, except where the value of the property does not exceed $500, or where advertising would serve no useful purpose.

Although this agency would not object to a bill which would authorize a negotiated sale to the city of Hogansville upon payment

by it of a proper consideration, no special circumstances or equities in favor of the city have been shown to exist which would justify a sale at a nominal consideration.

Accordingly, this agency would not object to enactment of the bill if it were amended to provide for payment by the city of the fair market value of the property.

The Bureau of the Budget has advised that there is no objection to the submission of this report to your committee.

Sincerely yours,

FRANKLIN G. FLOETE, *Administrator.*

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Calendar No. 2217

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2194

PROVIDING FOR THE CONVEYANCE OF A PORTION OF THE FORMER PRISONER-OF-WAR CAMP, NEAR DOUGLAS, CONVERSE COUNTY, WYO., TO THE STATE OF WYOMING, AND FOR OTHER PURPOSES

JUNE 11, 1956.—Ordered to be printed

Mr. MCCLELLAN, from the Committee on Government Operations, submitted the following

REPORT

[To accompany H. R. 8404]

The Committee on Government Operations, to whom was referred the bill (H. R. 8404) to provide for the conveyance of a portion of the former prisoner-of-war camp, near Douglas, Converse County, Wyo., to the State of Wyoming, and for other purposes, having considered the same, report favorably thereon, without amendment, and recommend that the bill do pass.

PURPOSE

The purpose of this bill is to authorize and direct the Administrator of General Services to convey to the State of Wyoming by quitclaim deed, without monetary consideration, 39.26 acres of Federal land for the training or support of the National Guard of Wyoming and for other military purposes. Such conveyance would be made upon certification of the Secretary of Defense and the Governor of Wyoming of the need for the property for the purpose intended. This land is a portion of a larger tract (42.7 acres) which was acquired and used as a former prisoner-of-war camp near Douglas, Converse County, Wyo.

The bill reserves to the United States all mineral rights, including gas and oil and the right of exclusive use without charge therefor of such property, together with any improvements thereon, during any period of national emergency. The bill further specifies that said property will be used for training of the National Guard or for other military purposes, and, in the event of such nonuse under certain circumstances and at the option of the Secretary of Defense, title to the land and improvements thereon will revert to the United States.

BACKGROUND DATA

The House of Representatives approved H. R. 8404 on April 16, 1956, without amendment. The following is quoted from House Report No. 1954, which was filed by the House Committee on Government Operations on March 27, 1956:

> The property (39.26 acres) which is the subject matter of the bill is a part of a larger tract (42.7 acres) of land acquired by the War Department during the early part of World War II. The prorated cost of the subject property was reported as $134,039 (land—$1,193; improvements (ward and administration-type buildings)—$132,846), being a part of a total cost of $247,543. The entire 42.7 acres had been used by the War Department as a prisoner-of-war camp. Upon discontinuance of use it was declared surplus to Government needs and transferred to War Assets Administration for disposal. On September 25, 1946, the property was conveyed by War Assets Administration to Converse County, Wyo., for public-health purposes. For a time it served as Memorial Hospital in that county. However, pursuant to reverter provisions in the deed of conveyance, the property, upon discontinuance of use by Converse County for hospital purposes, was on April 22, 1955, released by Converse County, Wyo., to the United States.
>
> After rescreening by the General Services Administration for further Federal utilization, the property was on December 7, 1955, again declared surplus to Federal needs.
>
> Three and one-half acres, improved by a sewage plant and pumphouse (costliest of the several improvements), were withdrawn from surplus and transferred by GSA to the Department of Health, Education, and Welfare for conveyance, under provisions of section 203 (k) of the Federal Property and Administrative Services Act of 1949, as amended, to the town of Douglas, Wyo., for public-health purposes.
>
> The remaining 39.26 acres is the subject of this bill.
>
> Although the Congress, in exercise of its constitutional authority regarding Federal property, has generally and specifically provided for disposal of surplus realty to States and their political subdivisions for public uses (e. g., airports, park and recreational, historic monuments, wildlife conservation, public health and education), there is no current statutory authorization for transfer of surplus Government-owned property for National Guard purposes. The Congress has, however, during the last several sessions manifested a continuing interest in the National Guard. In addition to general legislation specifically designed and intended to enhance the strength and mobilization potential of the civilian component of the armed services, including the National Guard, the Congress in successive sessions and upon recommendation of various jurisdictional committees has legislatively authorized and directed conveyances of surplus properties to States for National Guard purposes. National Guard legislation, especially since World War II, has not

only shown an unmistakable and continuing congressional recognition of the mobilization importance of the National Guard, but also of the necessity of Federal encouragement and assistance to the States in providing the facilities essential to the postwar, accelerated activities.

In disposal of Federal surplus property, very often by donation for various uses, the committee feels that it would be difficult to imagine a more worthwhile purpose or one in which the national interest is so apparent than transfers to States for National Guard purposes.

AGENCY COMMENTS

Enactment of an identical bill, S. 2828, introduced in the Senate by Senators Barrett and O'Mahoney, of Wyoming, on January 5, 1956, (in lieu of which H. R. 8404 was reported) was approved by the Bureau of the Budget, Secretary of Defense, and the General Services Administration, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington 25, D. C., March 13, 1956.

Hon. JOHN L. MCCLELLAN,
Chairman, Committee on Government Operations,
United States Senate, Washington 25, D. C.

MY DEAR MR. CHAIRMAN: This is in reply to your letter of January 12, 1956, requesting a report on S. 2828, a bill to provide for the conveyance of a portion of the former prisoner-of-war camp, near Douglas, Converse County, Wyo., to the State of Wyoming, and for other purposes.

The bill authorizes and directs the Administrator of General Services to convey to the State of Wyoming a land parcel of 39.26 acres, comprising a portion of the former prisoner-of-war camp near Douglas, Wyo. The land is to be used for the training of the National Guard or other military purposes.

The conveyance would be made without monetary consideration, reserving to the United States all mineral rights and the use of the property and improvements during any period of national emergency. In the event of nonuse for the purposes set forth in the bill, title to the land and improvements will revert to the United States at the option of the Secretary of Defense. Conveyance by the Administrator of General Services would be based upon certification by the Secretary of Defense and the Governor of Wyoming that the property is needed by the National Guard of Wyoming.

As you know, the administration is supporting the development of our military Reserve forces and measures which help to achieve this goal are desirable. Legislation, with generally similar provisions, has been enacted frequently by the Congress to support the National Guard in other locations and States. The Bureau of the Budget has no objection to enactment of the bill.

Sincerely yours,

(Signed) RALPH W. E. REID,
Assistant Administrator.

DEPARTMENT OF THE ARMY,
Washington 25, D. C., March 19, 1956.

Hon. JOHN L. MCCLELLAN,
Chairman, Committee on Government Operations,
United States Senate.

DEAR MR. CHAIRMAN: Reference is made to your request to the Secretary of Defense for the views of the Department of Defense with respect to S. 2828, 84th Congress, a bill to provide for the conveyance of a portion of the former prisoner-of-war camp, near Douglas, Converse County, Wyo., to the State of Wyoming, and for other purposes. The Secretary of Defense has delegated to the Department of the Army the responsibility for expressing the views of the Department thereon.

The purpose of the bill is to authorize and direct the Administrator of General Services to convey to the State of Wyoming all the right, title and interest of the United States in and to a parcel of land comprising a portion of the former prisoner-of-war camp near Douglas, Wyo., consisting of approximately 39.26 acres of land, to be used for the training of the National Guard and for other military purposes. The conveyance is to be made without monetary consideration, reserving to the United States all mineral rights and the use of the property and improvements during any period of national emergency. In the event of nonuse for the purposes set forth, title to the land and improvements, at the option of the Secretary of Defense, will revert to the United States.

The Department of the Army on behalf of the Department of Defense favors the above-mentioned bill.

The land described in the bill is a part of a larger tract of land acquired by the War Department during the early part of World War II. The portion described in the bill was acquired at a cost of $1,193.60, and 7 frame structures, consisting primarily of ward and administration-type buildings costing $132,846 were erected thereon incident to its use for military purposes during World War II. The prisoner-of-war camp became excess to the needs of the War Department and in January of 1945 it was declared as surplus. On September 25, 1946, the War Assets Administration, by quitclaim deed, conveyed to Converse County, Wyo., for hospital purposes, a portion of the property consisting of approximately 42.76 acres of land and improvements, which conveyance included the land described in S. 2828. On April 22, 1955, Converse County, Wyo., released its claim to the property by a deed in favor of the United States. The property was returned to the jurisdiction of the General Services Administration which after determining that no Federal requirement existed for its use, granted a license to the State of Wyoming for National Guard purposes.

The State of Wyoming intends to use and develop the property to be conveyed, as a National Guard motor-vehicle concentration site, motor-vehicle repair base, equipment storage base and weekend training site. The State of Wyoming has a long-range requirement for the property for military purposes.

For the foregoing reasons the Department of the Army on behalf of the Department of Defense recommends that the bill be favorably considered.

The enactment of this legislation will cause no apparent increase in the budgetary requirements for the Department of Defense.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

WILBER M. BRUCKER,
Secretary of the Army.

GENERAL SERVICES ADMINISTRATION,
Washington, D. C., March 26, 1956.

Re S. 2828.

Hon. JOHN L. MCCLELLAN,
Chairman, Committee on Government Operations,
United States Senate, Washington, D. C.

DEAR MR. CHAIRMAN: Further reference is made to your letter of January 12 requesting the views of this agency on S. 2828, for conveyance to the State of Wyoming of certain property near Douglas, Wyo.

The bill directs the Administrator of General Services to convey to the State of Wyoming, without consideration and upon such conditions as he determines to be necessary to protect the public interest, some 39.26 acres, a portion of the former prisoner-of-war camp, near Douglas, Converse County, Wyo., for National Guard or other military purposes, upon certification by the Secretary of Defense and the Governor of Wyoming that the property is needed by the National Guard of Wyoming.

The bill reserves to the United States mineral rights, use of the property during a period of national emergency, and reversion of the property in the event of its nonuse for the stated purposes as determined by the Secretary of Defense.

In view of the purposes of the disposal, this agency would not object to enactment of the bill.

The Bureau of the Budget has advised that there is no objection to the submission of this report to your committee.

Sincerely yours,

FRANKLIN G. FLOETE, *Administrator.*

○

Calendar No. 2219

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2196

AMENDING THE FEDERAL REGISTER ACT, AS AMENDED, SO AS TO PROVIDE FOR THE EFFECTIVENESS AND NOTICE TO THE PUBLIC OF PROCLAMATIONS, ORDERS, REGULATIONS, AND OTHER DOCUMENTS IN A PERIOD FOLLOWING AN ATTACK OR THREATENED ATTACK UPON THE CONTINENTAL UNITED STATES

JUNE 11, 1956.—Ordered to be printed

Mr. MCCLELLAN, from the Committee on Government Operations, submitted the following

REPORT

[To accompany H. R. 10417]

The Committee on Government Operations, to whom was referred the bill (H. R. 10417) to amend the Federal Register Act so as to provide for the effectiveness and notice to the public of proclamations, orders, regulations, and other documents in a period following an attack or threatened attack upon the continental United States, having considered the same, report favorably thereon, without amendment, and recommend that the bill do pass.

PURPOSE

The purpose of this bill is to provide statutory authority for the promulgation, filing, or publication of certain official documents, now required by law to be filed with the Federal Register Division of the National Archives Establishment and published in the Federal Register, in the event of a determination by the President that an attack or threatened attack on the continental United States, by air or otherwise, would make compliance impracticable or would fail to give the public appropriate notice of the contents of such documents.

The bill seeks to accomplish this objective by authorizing the President, after making such determination, to (1) suspend all or part of the legal requirements for promulgating, filing, or publishing such documents; and (2) establish such alternate systems for promulgating, filing, or publishing such documents, including requirements relating to their effectiveness or validity, as may be deemed practicable to provide public notice of the issuance and contents of such documents. In establishing such systems, the President would be authorized to

provide, without limitation, for the use of regional or specialized publications or depositories for documents, or of the press, radio or similar media of general communication. Suspensions of law authorized would remain in effect until revoked by the President or by concurrent resolution of the Congress, and compliance with the alternate systems would have the same force and effect as filing with the Division or publication in the Federal Register pursuant to existing legal requirements. Finally, if deemed practicable by the President, each agency would be required to preserve the original and two duplicate originals or certified copies thereof of all documents promulgated under such alternate systems, for filing with the Federal Register Division.

BACKGROUND

Under the provisions of the Federal Register Act (44 U. S. C. 301 et seq.), the Administrative Procedure Act (5 U. S. C. 1001 et seq.) and various other statutes and agency and departmental regulations, certain classes of official documents are required to be filed with the Federal Register Division of the National Archives Establishment and published in the Federal Register. These include (1) all Presidential proclamations and Executive orders, except those which are not of general applicability and legal effect, or are effective only against Federal agencies and officers; (2) all documents or classes of documents determined by the President to have general applicability and legal effect; (3) all documents or orders which prescribe a penalty; (4) except to the extent that they require secrecy or relate to the internal management of an agency, all substantive rules and regulations of agencies, and all agency requirements relating to formal and informal procedures; and (5) all documents required to be so published by an act of Congress.

The various statutes concerned make compliance by all executive branch agencies and departments mandatory and, in some instances, make such compliance a prerequisite to the effectiveness of the documents concerned.

NEED FOR LEGISLATION

The need for this legislation arises out of the fact that none of these statutes contain any provisions permitting the suspension of these requirements in an emergency situation in which compliance would be either impossible or impracticable.

In his explanatory statement accompanying the draft bill, the Attorney General points out that—

> Conceivably a situation might exist in the United States as a result of an atomic or other attack, by air or otherwise, under which the Archives Building, the Federal Register, and the Government Printing Office would be destroyed and the Government dispersed. Similarly, in a period of threatened attack it might be necessary to disperse the Government, means of communications might be limited, shortages of paper might exist, and the opportunity to continue Government periodicals might be substantially impaired. In such situations two competing considerations would have to be given weight. On the one hand, it would be impracticable to delay the effectiveness or validity of vital

> Presidential and other executive and administrative action until filing with the Federal Register Division and publication in the Federal Register could be accomplished. Indeed, such filing and publication might be impossible, or even if possible, means of access to various filed documents, and circulation of the Federal Register, might be so limited as not to constitute an appropriate method of giving notice to the public of the contents of such documents. On the other hand, the public is entitled to reasonable notice of executive and administrative action which, especially in such an emergency, vitally affects it.

The Attorney General observes further that, under a long-standing decision of the Supreme Court of the United States, some form of publication or proclamation is necessary in order for a Presidential proclamation, Executive order or agency rule or regulation to be effective (*Lapeyre* v. *United States*, 17 Wall. 191, 198–99 (1873)).

Finally, the Attorney General states that, although reliance might be placed on the contention that the Federal Register Act and the Administrative Procedure Act were not intended to be applicable to an emergency situation, and that any reasonable method of publication or promulgation would be effective under such circumstances—

> the validity of that contention would be uncertain until finally determined by a competent court. It would be preferable to place the matter beyond doubt by appropriate legislation making it possible to provide alternate systems for publication, promulgation and public availability of official documents.

COMMITTEE ACTION

The committee, in reporting H. R. 10417, considered an amendment to define more clearly what the term "threatened attack" upon the continental United States implied. Although the bill was reported without amendment, members of the committee reserved the right to propose an amendment on the floor of the Senate if, upon further study, it was determined that this authority might be too broad in its application.

AGENCY COMMENTS

Enactment of the pending bill is recommended by the Department of Justice, the Bureau of the Budget, the Office of Defense Mobilization, and the General Services Administration. The comments of the Department of Justice, in submitting the draft legislation, and of the Office of Defense Mobilization and the General Services Administration on S. 3607, an identical measure, follow:

APRIL 6, 1956.

The VICE PRESIDENT,
United States Senate, Washington, D. C.

DEAR MR. VICE PRESIDENT: Attached for your consideration and appropriate reference are copies of a proposed bill, together with accompanying explanation, to amend the Federal Register Act, as amended, so as to provide for the effectiveness and notice to the public

of proclamations, orders, regulations, and other documents in a period following an attack or threatened attack upon the continental United States.

The Bureau of the Budget has advised that there is no objection to the submission of this recommendation.

Sincerely,

———— ————, *Attorney General.*

EXPLANATORY STATEMENT TO ACCOMPANY BILL TO AMEND THE FEDERAL REGISTER ACT, AS AMENDED, SO AS TO PROVIDE FOR THE EFFECTIVENESS AND NOTICE TO THE PUBLIC OF PROCLAMATIONS, ORDERS, REGULATIONS, AND OTHER DOCUMENTS IN A PERIOD FOLLOWING AN ATTACK OR THREATENED ATTACK UPON THE CONTINENTAL UNITED STATES

The proposed bill deals with the situation which might result from an attack or threatened attack upon the United States which would create conditions making it impracticable to comply with some or all of the provisions of the Federal Register Act, as amended (44 U. S. C. 301 et seq.), and of the Administrative Procedure Act (5 U. S. C. 1001 et seq.), relating to the filing of documents with the Federal Register Division of the General Services Administration and for their publication in the Federal Register. These two enactments and regulations issued pursuant to the Federal Register Act require the filing with the Division and publication in the Federal Register of (1) all Presidential proclamations and Executive orders, except those which are not of general applicability and legal effect or are effective only against Federal agencies or officers, (2) all substantive rules and regulations of agencies, and (3) agency requirements relating to formal and informal procedures.

Section 2 of the Federal Register Act (44 U. S. C. 302) presently seems to require that filing be at the Archives Building in the District of Columbia and neither that act nor the Administrative Procedure Act provides for emergencies under which any of the requirements of filing and publication could be suspended with respect to all or any documents or classes of documents. The purpose of the proposed bill is to deal with such emergencies.

Conceivably a situation might exist in the United States as a result of an atomic or other attack, by air or otherwise, under which the Archives Building, the Federal Register, and the Government Printing Office would be destroyed and the Government dispersed. Similarly, in a period of threatened attack it might be necessary to disperse the Government, means of communication might be limited, shortages of paper might exist, and the opportunity to continue the publication of Government periodicals might be substantially impaired. In such situations two competing considerations would have to be given weight. On the one hand, it would be impracticable to delay the effectiveness or validity of vital Presidential and other executive and administrative action until filing with the Federal Register Division and publication in the Federal Register could be accomplished. Indeed, such filing and publication might be impossible, or, even if possible, means of access to various filed documents and circulation of the Federal Register might be so limited as not to constitute an appropriate method of giving notice to the public of the contents of

such documents. On the other hand, the public is entitled to reasonable notice of executive and administrative action which, especially in such an emergency, vitally affects it. Further, some form of publication or proclamation is necessary for a Presidential proclamation or Executive order or an agency rule or regulation to be effective (*Lapeyre* v. *United States*, 17 Wall, 191, 198–199).

Although reliance might be placed on the contention that neither the Administrative Procedure Act nor the Federal Register Act was intended to be applicable to an emergency situation such as is contemplated, and that any reasonable method of publication or promulgation would be effective under the circumstances, the validity of that contention would be uncertain until it should be ultimately judicially decided. It would be preferable to place the matter beyond doubt by appropriate legislation making it possible to provide alternate systems for publication, promulgation, and public availability of official documents.

The proposed bill would effectuate this purpose by adding a new subsection, (c), to section 5 of the Federal Register Act (44 U. S. C. 305). That subsection would authorize the President "In the event of an attack or threatened attack upon the continental United States, by air or otherwise," to determine that "as a result of such attack or threatened attack (i) publication of the Federal Register or filing of documents with the Division is impracticable, or (ii) under existing conditions publication in the Federal Register would not serve to give appropriate notice to the public of the contents of documents." These two conditions are believed to cover all of the contingencies referred to above. It should be emphasized that a formal declaration of war would not be necessary so long as the attack or threatened attack upon the continental United States was followed by one of the determinations described above.

The President could thereupon "suspend all or any part of the requirements of law or regulation for filing with the Division or publication in the Federal Register of all or any documents or classes of documents" until such time as he, or the Congress by concurrent resolution, revoked such suspension. The new subsection would be operative "without regard to the provisions of this Act [i. e., the Federal Register Act] or of the Administrative Procedure Act (60 Stat. 237), or of any other provision of law." The Presidential determinations initiating the period of suspension would not be subject to the filing and publication provisions of the Federal Register Act or the Administrative Procedure Act.

The term "document" is defined in section 4 of the Federal Register Act (44 U. S. C. 304) to mean "any Presidential proclamation or Executive order and any order, regulation, rule, certification, code of fair competition, license, notice, or similar instrument, issued, prescribed, or promulgated by a Federal agency." The same section defines the terms "Federal agency" or "agency" to "mean the President of the United States, or any executive department, independent board, establishment, bureau, agency, institution, commission, or separate office of the administrative branch of the Government of the United States but not the legislative or judicial branches of the Government." In view of these comprehensive definitions, the language contained in the proposed bill, which is to be inserted in the Federal Register Act, would cover not only the requirements for

publication and filing contained in sections 2 and 5 of that act (44 U. S. C. 302, 305) but also the similar requirements of sections 3 and 4 of the Administrative Procedure Act (5 U. S. C. 1002, 1003) relating to publication in the Federal Register.

It would be most difficult to conceive in advance of the actual situation what conditions would be like following an attack, or a threatened attack. Accordingly, rather than prescribe a specific system for promulgation and public notice with respect to documents during such a period, the bill would direct the President to "establish such alternate systems for promulgating, filing, or publishing documents or classes of documents affected by such suspensions, including requirements relating to their effectiveness or validity, as may be deemed under the then existing circumstances practicable to provide public notice of the issuance and of the contents of such documents."

The President would be authorized to prescribe alternatives to the present system of filing and publication which might vary in different regions or localities. For example, whether there would be one Federal Register or a number of regional ones would be determined in the light of the situation then existing. Whether there would be one depository for Government documents or a number throughout the country would be determined on the same basis. Similarly, one type of publication might be appropriate for technical regulations of limited interest and different means of providing public notice might be used for documents of more general public interest. In addition, the press, the radio or similar media of general communication could, but need not be, used for the publication or promulgation of documents. The President would be authorized to direct every agency issuing, prescribing, or promulgating documents during a period of suspension to make every effort practicable under the circumstances to provide public notice of its action and of the contents of such documents, and to make copies thereof accessible to the public. Directions could be issued to agencies to take steps to place copies of documents in places like public libraries, city halls, courts, State capitols, etc. No requirement to take any such specific action is contained in the bill because it is not now known whether any single action of this nature would, in fact, be possible and operate to serve the intended purpose. However, the authority to require it would be created. In addition, the agencies would be required to preserve original documents and two duplicate originals or two certified copies thereof for filing with the Federal Register Division when the President determines that it is practicable to do so.

Finally, the bill would provide that "Compliance with such alternate systems of filing or publication shall have the same force and effect as filing with the Division or publication in the Federal Register pursuant to the provisions of this or of any other Act, or of any regulation." In brief, compliance with the directions of the President with respect to the publication, promulgation, and filing of documents would have the same effect as compliance with the Federal Register Act and the Administrative Procedure Act does today, and documents issued, published or promulgated in accordance with such directions would be valid and effective.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D. C., April 27, 1956.

Hon. JOHN L. MCCLELLAN,
Chairman, Committee on Government Operations,
United States Senate, Washington, D. C.

MY DEAR MR. CHAIRMAN: This is in response to your letter relative to S. 3607, a bill to amend the Federal Register Act, as amended, so as to provide for the effectiveness and notice to the public of proclamations, orders, regulations, and other documents in a period following an attack or threatened attack upon the continental United States.

The purpose of the bill is to permit orderly arrangements to be made concerning the promulgation, filing, or publication of documents otherwise required to be filed with the Federal Register Division or published in the Federal Register, such arrangements to be operative in the event of an attack or threatened attack upon the United States, and to assure that documents so filed or published will be valid and effective. The bill authorizes the President, in the circumstances referred to above, to suspend all or any part of the requirements of law or regulation for filing with the Division of the Federal Register or publication in the Federal Register of all or any documents or classes of documents. The objectives of the bill are further described in the explanatory statement transmitted to the Vice President by the Attorney General April 6, 1956, with his letter presenting the proposed bill.

The Bureau of the Budget recommends the enactment of S. 3607.

Sincerely yours,

PERCY RAPPAPORT,
Assistant Director.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF DEFENSE MOBILIZATION,
Washington, D. C., April 26, 1956.

Hon. JOHN. L. MCCLELLAN,
Chairman, Committee on Government Operations,
United States Senate, Washington, D. C.

DEAR SENATOR MCCLELLAN: Reference is made to your letter of April 14, requesting information concerning the objectives of S. 3607, a bill to amend the Federal Register Act, as amended, so as to provide for the effectiveness and notice to the public of proclamations, orders, regulations, and other documents in a period following an attack or threatened attack upon the continental United States.

The objectives of the bill are desirable from the defense mobilization viewpoint. There can be little question of the necessity for avoiding any possibility of delaying the effectiveness or validity of Presidential and other executive actions in the event of an enemy attack on the United States or of the desirability of reasonable notice to the public of actions taken. The provisions of S. 3607 appear to afford a satisfactory and desirable means of meeting those objectives under circumstances which would threaten their achievement under normal procedures. The flexible nature of the President's authority under this bill would be particularly desirable because of the great

variety of circumstances with which the President could be faced as a result of enemy attack. Express statutory authority to meet such a situation appears desirable and we would be in favor of enactment of this bill.

The Bureau of the Budget advises that it has no objection to the submission of this report.

Sincerely yours,

VICTOR E. COOLEY,
Acting Director.

GENERAL SERVICES ADMINISTRATION,
Washington, D. C., May 11, 1956.

Re S. 3607.

Hon. JOHN L. MCCLELLAN,
Chairman, Committee on Government Operations,
United States Senate, Washington, D. C.

DEAR MR. CHAIRMAN: Your letter of April 14, 1956, acknowledged April 16, 1956, requested a report from GSA on S. 3607, a bill to amend the Federal Register Act, as amended, so as to provide for the effectiveness and notice to the public of proclamations, orders, regulations, and other documents in a period following an attack or threatened attack upon the continental United States.

This bill would amend the Federal Register Act (49 Stat. 501; 44 U. S. C. 305) by authorizing the President to suspend the publication of the Federal Register and establish such alternate systems as may be deemed sufficient to promulgate the information affected by such suspensions. This authorization would go into effect in the event of attack or threatened attack upon the United States, and a determination by the President that (i) the publication of the Federal Register is impracticable, or (ii) that the publication of the Federal Register would not give appropriate notice to the public of the contents of documents.

These suspensions would remain in effect until revoked by the President, or by a concurrent resolution of the Congress.

It is believed that this legislative proposal would meet the requirements for the promulgation of official notification of governmental activities to the public in the event of an armed attack or threatened attack upon the continental United States. Therefore, GSA favors the enactment of S. 3607.

The Bureau of the Budget advises that there is no objection to the submission of this report to your committee.

Sincerely yours,

FRANKLIN G. FLOETE, *Administrator.*

CHANGES IN EXISTING LAW

In compliance with Section 4 of Rule XXIX of the Standing Rules of the Senate, changes in existing law made by this bill are shown as follows (new material is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 5 OF THE ACT OF JULY 26, 1955

(40 Stat. 501, 44 U. S. C. 305)

(a) There shall be published in the Federal Register (1) all Presidential proclamations and Executive orders, except such as have no general applicability and legal effect or are effective only against Federal agencies or persons in their capacity as officers, agents, or employees thereof; (2) such documents or classes of documents as the President shall determine from time to time have general applicability and legal effect; and (3) such documents or classes of documents as may be required so to be published by Act of the Congress: *Provided*, That for the purposes of this chapter every document or order which shall prescribe a penalty shall be deemed to have general applicability and legal effect.

(b) In addition to the foregoing there shall also be published in the Federal Register such other documents or classes of documents as may be authorized to be published pursuant hereto by regulations prescribed hereunder with the approval of the President, but in no case shall comments or news items of any character whatsoever be authorized to be published in the Federal Register.

(c) *In the event of an attack or threatened attack upon the continental United States, by air or otherwise, and a determination by the President that as a result of such attack or threatened attack (i) publication of the Federal Register or filing of documents with the Division is impracticable, or (ii) under existing conditions publication in the Federal Register would not serve to give appropriate notice to the public of the contents of documents, the President may, without regard to the provisions of this Act or of the Administrative Procedure Act (60 Stat. 237), or of any other provision of law, suspend all or any part of the requirements of law or regulation for filing with the Division or publication in the Federal Register of all or any documents or classes of documents. Such suspensions shall remain in effect until revoked by the President, or by concurrent resolution of the Congress. The President shall establish such alternate systems for promulgating, filing, or publishing documents or classes of documents affected by such suspensions, including requirements relating to their effectiveness or validity, as may be deemed under the then existing circumstances practicable to provide public notice of the issuance and of the contents of such documents. Such alternate systems may, without limitation, make provision for the use of regional or specialized publications or depositories for documents, or of the press, the radio, or similar media of general communication. Compliance with such alternate systems of filing or publication shall have the same force and effect as filing with the Division or publication in the Federal Register pursuant to the provisions of this or of any other Act, or of any regulation. With respect to documents promulgated under such alternate systems, each agency shall preserve the original and two duplicate originals or two certified copies thereof for filing with the Division when the President determines that it is practicable to do so.*

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Calendar No. 2220

84TH CONGRESS, 2d Session } SENATE { REPORT No. 2197

AUTHORIZING THE ADMINISTRATOR OF GENERAL SERVICES TO CONVEY CERTAIN LANDS IN THE STATE OF WYOMING TO THE CITY OF CHEYENNE, WYO.

JUNE 11, 1956.—Ordered to be printed

Mr. MCCLELLAN, from the Committee on Government Operations, submitted the following

REPORT

[To accompany S. 2654]

The Committee on Government Operations to whom was referred the bill (S. 2654), to authorize the Administrator of General Services to convey certain lands in the State of Wyoming to the city of Cheyenne, Wyo., having considered the same, report favorably thereon, with an amendment, and recommend that the bill, as amended do pass.

The amendments are as follows:

On page 1, line 3, immediately after the word "That", insert a comma and the following: "subject to the provisions of section 2 (a) of this Act,".

On page 2, after line 3, insert the following new section:

SEC. 2. (a) The deed of conveyance (1) shall provide that the tract of land authorized to be conveyed shall be used by the city of Cheyenne, Wyoming, for such purposes as will not in the judgment of the Administrator of Veterans' Affairs or his designate interfere with the operation of the Veterans' Administration Center, Cheyenne, Wyoming; (2) may contain such additional terms, conditions, reservations, and restrictions as may be determined by the Administrator of General Services to be necessary to protect the interests of the United States; and (3) shall provide that title to such tract shall revert to the United States upon the violation by the grantee of any such term, condition, reservation, or restriction.

PURPOSE

This bill would authorize and direct the Administrator of General Services to convey all right, title, and interest of the United States in and to 90.2 acres of surplus land donated to the Veterans' Administration by the city of Cheyenne, Wyo., in 1932, together with improvements thereon, to the city of Cheyenne, without consideration or transfer of funds.

BACKGROUND

In 1932, the city of Cheyenne, Wyo., donated to the Veterans' Administration a tract of approximately 600 acres of land. Available records disclose that the city paid $9,000 for some 558 acres of that land, in 1932, and the deeds covering the remaining 42 acres recite considerations of $625, $1 "and other valuable consideration," and $1. The Government subsequently constructed a Veterans' Administration center on the land, which is presently maintained as a regional office and a 151-bed hospital with a preponderance of general medical and surgical patients.

Pursuant to authority contained in the act of June 29, 1948 (62 Stat. 1104), the Administrator of Veterans' Affairs conveyed, by quitclaim deed and without consideration, to the city of Cheyenne, Wyo., for use as a public park and a golf course, a parcel of land containing approximately 431 acres which was included in the original tracts and situated within the boundaries of the Veterans' Administration Center.

Following a recent study of the land requirements at the Cheyenne, Wyo., center it was concluded that approximately 90 acres of land located in the northerly and easterly portions of the reservation were excess to the present and foreseeable future requirements of the center. As a result, a 90-acre tract was declared excess to the needs of the Veterans' Administration on July 20, 1955. S. 2654 would convey this tract, which is situated between the remaining portion of the reservation and the 431 acres conveyed to the city in 1948.

In the declaration of excess, the General Services Administration was requested to (1) retain in the Government all property rights to an 18-inch storm sewer which extends across part of the excess acreage to a headwall, and to retain all rights to discharge storm water and surface drainage from the remainder of the reservation of the Veterans' Administration center onto the excess land, and (2) restrict the use of the property so as to prohibit its use for heavy industry or any development from which obnoxious odors, industrial waste, or excessive noise might emanate, or any purpose which might be detrimental to the operation of the adjoining Veterans' Administration center.

The city of Cheyeene, Wyo., has expressed its desire to acquire the 90 acre tract in question, and representatives of the city have indicated that their ultimate use of the land might be for residential development, after subdivision. At the time consideration was being given to declaring this land excess, the chief appraiser of the loan guaranty division of the Cheyenne Center, upon request, appraised the 90-acre tract and concluded that some 34 acres, which lent themselves readily to commercial development, had a fair market value of $1,000 per acre (or $34,000), and the remaining 56 acres, which would be usable as residential or commercial property with proper development, had

a fair market value of $350 per acre (or $19,670), for a total value of $53,670 for the 90-acre tract. He noted that in comparable acreages in and near the city where housing developments are being carried out, the developer is subdividing the land into six lots to the acre and selling the acreage, when all improvements are installed, at from $7,200 to $9,000 per acre.

By letter dated December 14, 1955, the Acting Administrator of Veterans' Affairs reported to the chairman of the committee that the city has taken no action toward the development of a public park and golf course on the 431 acres of land previously transferred, as contemplated and specifically provided in the 1948 act. The Veterans' Administration further reported that the city failed to develop the property in accordance with the 1948 act due to the fact that a drougth has compelled the city of Cheyenne to expend large sums of money for improvement and expansion of its water supply system; that the mayor of the city of Cheyenne indicated the city has concentrated its efforts on preserving the existing public parks rather than developing new park areas; and that, consequently, the city has not been able to devote much effort to expanding the park facilities as contemplated under the original agreement.

The Veterans' Administration reported to the committee that its principal interest in S. 2654 is to assure that the 90-acre tract is not used by the city of Cheyenne in a manner inimical to the proper and effective operation of the Veterans' Administration center located on the adjoining land. The Administration reported that the bill, as introduced, contained no restriction as to the use proposed to be made of the tract in question, the usual reservations or restrictions to protect the interests of the United States, nor provision for reversion to the United States if such restrictions are violated. Accordingly the Veterans' Administration recommended the amendments which were adopted by the committee.

RELATED BILLS

A companion bill, H. R. 8756, was introduced in the House of Representatives on January 24, 1956, and referred to the Committee on Government Operations. Another bill, H. R. 9358, which provides for amending the act of June 29, 1948 (62 Stat. 1104) by striking out the restrictions as to use of the 431 acres previously conveyed, and requiring the Administrator of Veterans' Affairs to issue to the city of Cheyenne a new quitclaim deed to the property, was introduced in the House of Representatives on February 16, 1956. This bill was approved by the House on May 7, and passed the Senate on May 31, 1956.

AGENCY COMMENTS

In response to a request for recommendations and comments to the affected agencies by the chairman, under date of August 2, 1955, reports have been received from the General Services Administration, Veterans' Administration, and the Comptroller General. The Administrator of General Services [Mr. Edmund F. Mansure] advised the committee, under date of December 16, 1955, that "it is a matter of policy for the Congress to determine whether to convey this property to the city by special legislation on other than the established

terms and conditions and before completion of the screening process to determine further Federal use for the property."

Under date of May 15, 1956, the new Administrator of General Services [Mr. Franklin G. Floete] advised the committee that "unless the city can show a public benefit similar to those which the Federal Property and Administrative Services Act of 1949 and other acts specify as a basis for a disposal of property at a discount based on fair value, this agency would not favor the enactment of S. 2654 as a special exception to the general policy now prescribed by statute, that surplus property be disposed of by competitive bidding to the highest bidder." The Administrator stated that S. 2654 does not specify the use which the city intends to make of this property, and that the major portion of the original tract, which was transferred to the city without consideration for a specific purpose, has not been authorized for the purpose in accordance with the requirements set forth in the act authorizing such conveyance to the city. (See House action on H. R. 9358, under "Related bills").

In a letter to Senator Frank A. Barrett, sponsor of S. 2654, the mayor of the city of Cheyenne stated that the property being transferred would be used for recreation and educational purposes. An extract from Mayor Christensen's letter to Senator Barrett follows:

> We are using most of that land for little league baseball; we have 4 diamonds out there in operation and there are over 1,100 boys playing ball on that field. Last year the Veterans' Administration allowed us to use one diamond, and the program was so successful that it has been expanded this year. Ninety acres is being used for recreation, and we hope with this added information, along with the fact that we are planning to build a school on this property, that the Government will see fit to return it to the city with a clear title.

The letters from the General Services Administration, the Veterans' Administration, and the Comptroller General of the United States relating to S. 2654 follow:

GENERAL SERVICES ADMINISTRATION,
Washington, D. C., December 16, 1955.

Re S. 2654

Hon. JOHN L. MCCLELLAN,
Chairman, Committee on Government Operations,
United States Senate, Washington, D. C.

DEAR SENATOR MCCLELLAN: Further reference is made to your letter of August 2 requesting the views of this agency on S. 2654, for the conveyance of certain Federal lands to the city of Cheyenne, Wyo.

The bill directs the Administrator of General Services to convey without consideration to the city of Cheyenne some 90.2 acres, together with improvements, formerly part of the Veterans' Administration Center in Cheyenne.

The subject acreage was reported to this agency as excess property by the Veterans' Administration and is now being screened to determine whether there is any further Federal need therefor.

The acreage is part of a 600-acre tract donated to the United States by the city of Cheyenne in 1932 for Federal hospital purposes.

The hospital facility was constructed and has been in continuous operation. Some 430 acres, not needed for the hospital, were reconveyed to the city in 1948 (62 Stat. 1104).

Under the circumstances, the city does not appear to have any special equity in the remaining acreage. The Federal Property and Administrative Services Act of 1949 establishes the terms and conditions generally for disposal of Federal surplus property to State and local governments for health, education, park, recreation, and monument purposes.

It is a matter of policy for the Congress, of course, to determine whether to convey this property to the city by special legislation on other than the established terms and conditions and before completion of the screening process to determine further Federal use for the property.

The Bureau of the Budget has advised that there is no objection to the submission of this report to your committee.

Cordially yours,

EDMUND F. MANSURE,
Administrator.

GENERAL SERVICES ADMINISTRATION,
Washington, D. C., May 15, 1956.

Re. S 2654.

Hon. JOHN L. MCCLELLAN,
Chairman, Committee on Government Operations,
United States Senate, Washington, D. C.

DEAR MR. CHAIRMAN: Reference is made to your letter of August 2, 1955, requesting the views of this agency on S. 2654, and to the reply thereto dated December 16, signed by my predecessor in office.

The following supplemental remarks are made in the belief that circumstances of this case are such as warrant the expression by this agency of a more positive view than that reflected by the December 16 letter.

The subject acreage is part of a 600-acre tract donated to the United States by the city of Cheyenne in 1932. A Veterans' Administration hospital facility was constructed and has been in continuous operation. Some 430 acres, not needed for the hospital, were reconveyed to the city in 1948 (62 Stat. 1104), without consideration but with a reversion to the United States should the city of Cheyenne fail to maintain a public park and golf course on the land. It is our understanding that that property has never in fact been maintained by the city as a public park and golf course.

The Veterans' Administration reported the 90.2-acre tract excess, subject to the reservation of all rights to an 18-inch storm sewer extending on to the tract, together with the right to discharge storm water and surface drainage from the remainder of the Veterans' Administration center onto the excess tract, and subject to a restriction against use of the property for heavy industrial or any development from which obnoxious odors, industrial waste, or excessive noise might emanate, or for any purpose which may be detrimental to the operation of the adjoining Veterans' Administration center.

The 90.2-acre tract was determined to be surplus by this agency November 23, 1955, after screening against Federal requirements failed to develop any need for the property.

Under the Federal Property and Administrative Services Act of 1949, the disposition of surplus real property, with certain exceptions not pertinent here, such as disposals for public health, educational, park, and recreation purposes, shall be made by competitive bid to the highest bidder even though one of the parties seeking the property is a local governmental unit.

From time to time, special legislation has been enacted to effect a departure from that general rule because of the equities in the particular case. In this case, the city of Cheyenne originally donated the property to the Government for a special purpose. However, the purpose for which the land was donated has been accomplished and presumably the city has realized the benefits that motivated the donation. Moreover, the major portion of the original tract has already been returned to the city without consideration for a specific purpose. In view of those facts and in view of the fact that 24 years have elapsed since the original donation, the situation has so changed with respect to this property that the retransfer of the 90.2 acres of land would not have the effect of placing the city in the same situation with respect to the property as existed prior to the original donation. Also, S. 2654 does not specify the use which the city intends to make of this property and does not include the conditions attached by the Veterans' Administration to the declaration of the property as excess to its needs.

Accordingly, unless the city can show a public benefit similar to those which the Federal Property and Administrative Services Act of 1949 and other acts specify as a basis for a disposal of property at a discount based on fair value, this agency would not favor the enactment of S. 2654 as a special exception to the general policy now prescribed by statute that surplus property be disposed of by competitive bidding to the highest bidder.

The Bureau of the Budget has advised that there is no objection to the submission of this report to your committee.

Sincerely yours,

FRANKLIN G. FLOETE, *Administrator.*

VETERANS' ADMINISTRATION,
Washington, D. C., December 14, 1955.

Hon. JOHN L. MCCLELLAN,
Chairman, Committee on Government Operations,
United States Senate, Washington, D. C.

DEAR SENATOR MCCLELLAN: Further reference is made to your letter requesting a report by the Veterans' Administration relative to S. 2654, 84th Congress, a bill to authorize the Administrator of General Services to convey certain lands in the State of Wyoming to the city of Cheyenne, Wyo., which provides as follows:

"That the Administrator of General Services is authorized and directed to convey by quitclaim deed, without consideration, to the city of Cheyenne, Wyoming, all right, title, and interest of the United

States in and to approximately ninety and two-tenths acres of land, together with any improvements thereon, which were formerly a part of the tract of land comprising the Veterans' Administration Center, Cheyenne, Wyoming, and declared surplus to the needs of the Veterans' Administration, the exact description of which shall be determined by the Administrator of General Services."

In 1932, the city of Cheyenne, Wyo., donated to the Veterans' Administration a tract of approximately 600 acres of land. Available records disclose that the city paid $9,000 for some 558 acres of that land, in 1932, and the deeds covering the remaining 42 acres recite considerations of $625, $1 "and other valuable consideration," and $1. The Veterans' Administration subsequently constructed a Veterans' Administration center on the land, which presently consists of a regional office and a 151-bed hospital with a preponderance of general medical and surgical patients.

Pursuant to authority contained in the act of June 29, 1948 (62 Stat. 1104), the Veterans' Administration conveyed, by quitclaim deed and without consideration, to the city of Cheyenne, Wyo., for use as a public park and a golf course, a parcel of land containing approximately 431 acres which was situated within the boundaries of the Veterans' Administration center at Cheyenne. It may incidentally be noted that, to date, the city has taken no action toward the development of the park and golf course contemplated by the 1948 act.

Following a recent study of the land requirements at the Cheyenne, Wyo., center it was concluded that approximately 90.2 acres of land located in the northerly and easterly portions of the reservation were excess to the present and foreseeable future requirements of the center. As a result, the 90-acre tract was declared to the General Services Administration, under date of July 20, 1955, as excess to the needs of the Veterans' Administration. (It is noted that the declaration was one of "excess" and not "surplus" (line 10, page 1 of the bill), which latter term, under the Federal Property and Administrative Services Act of 1949, denotes property for which there is no Government, as distinguished from agency, need.) S. 2654 is concerned with this tract, which is situated between the remaining portion of the reservation and the 431 acres conveyed to the city in 1948. In the declaration of excess, the General Services Administration was requested to (1) retain in the Government all property rights to an 18-inch storm sewer which extends across part of the excess acreage to a headwall, and to retain all rights to discharge storm water and surface drainage from the remainder of the reservation of the Veterans' Administration center onto the excess land, and (2) restrict the use of the property so as to prohibit its use for heavy industry or any development from which obnoxious odors, industrial waste, or excessive noise might emanate, or any purpose which might be detrimental to the operation of the adjoining Veterans' Administration center.

The city of Cheyenne, Wyo., has expressed its desire to acquire the 90-acre tract in question, and representatives of the city have indicated that their ultimate use of the land might be for residential development, after subdivision.

It may be noted that at the time consideration was being given to declaring this land excess, the chief appraiser of the loan guaranty division of the Cheyenne center, upon request, appraised the 90-acre tract and concluded that some 34 acres, which lent themselves readily to commercial development, had a fair market value of $1,000 per acre (or $34,000), and the remaining 56 acres, which would be usable as commercial property with proper development, had a fair market value of $350 per acre (or $19,670), for a total value of $53,670. He noted that in comparable acreages in and near the city where housing developments are being carried out, the developer is subdividing the land into six lots to the acre and selling the acreage, when all improvements are installed, at from $7,200 to $9,000 per acre.

The principal interest of the Veterans' Administration in S. 2654 is to assure that the 90-acre tract is not used by the city of Cheyenne in a manner inimical to the proper and effective operation of the Veterans' Administration center located on adjoining land. It is noted in this connection that the bill contains no specification of the use proposed to be made of the tract in question by the city. Moreover, it does not contain any provision specifically authorizing the incorporation in the deed of conveyance of the reservations and restrictions referred to in the declaration of excess to the General Services Administration dated July 20, 1955. Accordingly, in order to protect the interests of the United States, it is recommended that S. 2654 be amended by inserting a provision reading substantially as follows:

"The deed of conveyance (1) shall provide that the tract of land authorized to be conveyed shall be used by the city of Cheyenne, Wyoming, for such purposes as will not in the judgment of the Administrator of Veterans' Affairs or his designate interfere with the operation of the Veterans' Administration Center, Cheyenne, Wyoming; (2) may contain such additional terms, conditions, reservations, and restrictions as may be determined by the Administrator of General Services to be necessary to protect the interests of the United States; and (3) shall provide that if any provision thereof is violated, title to the tract shall revert to the United States."

In view of the fact that the tract in question is presently under the jurisdiction and control of the Administrator of General Services and since the bill provides for the conveyance of the tract by him, it is assumed that your committee will secure his comments relative to the proposal.

If the bill is amended in the manner suggested in this report, the Veterans' Administration would interpose no objection to its favorable consideration by your committee.

Advice has been received from the Bureau of the Budget that there would be no objection to the submission of this report to your committee.

Sincerely yours,

JOHN S. PATTERSON,
Acting Administrator.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, August 16, 1955.

Hon. JOHN L. MCCLELLAN,
Chairman, Committee on Government Operations,
United States Senate.

DEAR MR. CHAIRMAN: Reference is made to your letter of August 2, 1955, acknowledged August 3, transmitting a copy of S. 2654 and requesting our views and recommendations relative thereto. The bill would authorize and direct the Administrator of General Services to convey to the city of Cheyenne, Wyo., without monetary consideration, a certain parcel of land consisting of approximately 90 acres which formerly was a part of the Veterans' Administration Center but was declared to be excess to the needs of the Veterans' Administration.

General authority exists for the disposal of Federal real property which is surplus to the needs of the Federal Government. Such property may be sold and the receipts deposited into the Treasury (40 U. S. C. 484 (c)); transferred to political subdivisions of a State for parks and recreational use at 50 percent of its fair value (50 U. S. C. App. 1622 (h)); transferred to municipalities for educational or public health purposes at a sales price which takes into consideration any benefit which may accrue to the United States from such use of the property by the purchaser (40 U. S. C. 484 (k)); or, it may be transferred for other purposes under general provisions applicable to the use to which the land is to be put.

We have no information as to the property here involved, whether it could not be advantageously used by Federal agencies other than the Veterans' Administration or the intended use of the land by the city of Cheyenne. However, there is no reason known to us which would warrant the transfer of the land to the city if its use would be advantageous to a Federal agency other than the Veterans' Administration. Also, if the land is surplus to all Federal needs, no reason is known to us why it should be disposed of for any consideration less than that prescribed by the Congress in the general statutes referred to above for real property intended for the use to which it is proposed to be put by the city of Cheyenne. It is to be noted that these statutes also contain provisions requiring the insertion in the deeds of conveyance of restrictive and reversionary clauses designed to safeguard the interests of the United States and, on the basis of the record before us, we recommend against favorable consideration of the bill.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

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Calendar No. 2221

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2198

ADJUSTING THE APPLICATION OF SECTION 322 OF THE SO-CALLED ECONOMY ACT OF 1932 TO PREMISES LEASED FOR GOVERNMENT PURPOSES

JUNE 11, 1956.—Ordered to be printed

Mr. MCCLELLAN, from the Committee on Government Operations, submitted the following

REPORT

[To accompany S. 3843]

The Committee on Government Operations, to whom was referred the bill (S. 3843) to adjust the application of section 322 of the so-called Economy Act of 1932 to premises leased for Government purposes, having considered the same, report favorably thereon, with an amendment, and recommend that the bill, as amended, do pass.

The amendment is as follows:

Beginning on line 8, page 1, strike out all of section 2.

PURPOSE

The purpose of this bill, introduced at the request of the Administrator of General Services, is to simplify the making and administration of leases for the rental of premises for Government purposes in the light of changes in circumstances which have occurred since 1933, when certain effected provisions of law were enacted.

The act of June 30, 1932, prohibited the Government from paying a rental for leased premises in excess of 15 percent of the fair market value of such rental premises, and limited the expenditure for alterations, improvements, or repair thereof to no more than 25 percent of the amount of the rent for the first year of the rental term. Subsequently, the act of March 3, 1933, exempted annual rentals amounting to $2,000 or less from the 15 percent rental limitation in order to avoid the disproportionate expense and difficulty involved in appraising and determining the fair market value of small properties for this purpose. This bill would raise this exemption from $2,000 to $5,000, which the Administrator of General Services reports is necessary in order to continue to avoid unnecessary appraisal expenses since

statistics indicate that $5,000 today will rent approximately the same amount of space as did $2,000 in 1933.

In 1942, exemptions from both the rental and alterations limitations were authorized, during war or a national emergency, with respect to leases certified by the Secretary of the Army or Navy as covering premises for the prospecution of the war or vital in the national emergency. These exemptions were based on the premise that during a national emergency the delay and expense of complying with the limitation provided for in the 1932 act should be avoided and that it would be preferable to lease and make substantial alterations in some cases rather than to construct new buildings. However, Reorganization Plan No. 18 of 1950 transferred to the General Services Administration all of the functions of executive agencies, including the Department of Defense (with certain exceptions), relating to acquiring space in buildings by lease.

Section 2 of S. 3843, as introduced, would have extended to the Administrator of General Services the same authority to exempt leases from the statutory limitations, during a national emergency, which the 1942 statute vests in the service secretaries. The committee struck out section 2 on the premise that there was no need for this authority until a national emergency arose, at which time there would be ample opportunity to provide the necessary authority as incorporated under this provision of the bill. It should be noted that in World War II, the act granting such emergency authority to the Secretary of the Army or Navy was not enacted until April 28, 1942, or 5 months after the start of the war.

AGENCY COMMENTS

The Administrator of General Services submitted the following letter to the President of the Senate in support of the bill:

GENERAL SERVICES ADMINISTRATION,
Washington 25, D. C., May 4, 1956.

Re Draft Bill—Leases—Economy Act.

Hon. RICHARD M. NIXON,
President of the Senate,
Washington 25, D. C.

DEAR MR. PRESIDENT: There is transmitted, for referral to the appropriate committee, a draft bill prepared by this agency to adjust the application of section 322 of the so-called Economy Act of 1932 to premises leased for Government purposes.

The purpose of the bill is to simplify the making and administration of leases for the rental of premises for governmental purposes in the light of changes in circumstances which have occurred since 1933 and 1942 when certain affected provisions of law were enacted

In 1933, the so-called Economy Act of 1932 (sec. 322, 47 Stat. 412; 40 U. S. C. 278a) was amended to exclude leases involving an annual rental of $2,000 or less from the 15 percent of fair market value limitation imposed on the amount the Government might pay for the rental of buildings or parts of buildings (sec. 15, 47 Stat. 1517 (1933)). The purpose of the exemption was to avoid the disproportionate expense and difficulty involved in appraising and determining the fair market

value of small properties for this purpose (76 Congressional Record 3466 (1933)).

To continue to avoid such unnecessary expense and difficulty, it is desirable to raise from $2,000 to $5,000 the amount of the exemption provided, because the latter sum will rent today about the same amount of space that the former sum did in 1933. According to the Bureau of Labor Statistics, the purchasing power of the wholesale dollar (based on a $1 norm for 1947–49) was $2.34 in 1933 and $0.91 in March 1955, approximately 2½ times less. The proposed amendment, therefore, merely restores the exemption originally contemplated.

In 1942, an exemption was provided from both the rental and alteration limitations on leases provided by the Economy Act during war or national emergency, when the Secretary of War or the Secretary of the Navy certified that the lease covered premises for military, naval or civilian purposes necessary for the prosecution of the war or vital in the national emergency (56 Stat. 247; 40 U. S. C. 278b).

This exemption was based on the premise that during a national emergency the delay and expense of complying with the Economy Act limitations should be avoided, that it would be preferable to lease and make substantial alterations in some cases rather than to construct new buildings, and that acquisition of space by condemnation because of the inflexibility of the limitations should be unnecessary (S. Rept. 993, 77th Cong., 2d sess. (1942)).

By Reorganization Plan No. 18 of 1950 (sec. 1, 64 Stat. 1270), all functions of executive agencies, including the Department of Defense, with respect to acquiring space in buildings by lease were transferred to the General Services Administration. Therefore, in order that this exemption made in 1942 may be accommodated to this change in leasing responsibility made in 1950, it is appropriate to designate the Administrator of General Services as one who may likewise make the prescribed certification.

The draft bill will adjust the affected provisions of law to carry out their original intendment and will improve the efficiency of the Government's space leasing operation. Favorable consideration of the measure is urged.

The Bureau of the Budget has advised that there is no objection to the presentation of this proposed legislation to the Congress.

Sincerely yours,

FRANKLIN G. FLOETE,
Administrator.

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Calendar No. 2222

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2199

AMENDING THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949, AS AMENDED

JUNE 11, 1956.—Ordered to be printed

Mr. MCCLELLAN, from the Committee on Government Operations, submitted the following

REPORT

[To accompany H. R. 7855]

The Committee on Government Operations, to whom was referred the bill (H. R. 7855) to amend the Federal Property and Administrative Services Act of 1949, as amended, to extend until June 30, 1956, the period during which disposals of surplus property may be made by negotiation, having considered the same, report favorably thereon, with an amendment, and recommend that the bill, as amended, do pass.

The amendment is as follows:

On page 1, line 6, strike out "June 30, 1956", and insert in lieu thereof "July 31, 1958".

PURPOSE

This bill extends until July 31, 1958, the authority of the Administrator of General Services to dispose of surplus property by negotiation, rather than by advertising, when it is determined that advertising will not facilitate disposal, and that disposal by negotiation will further the public interest. This authority originally was contained in the Surplus Property Act of 1944, as amended, and continued under the Federal Property and Administrative Services Act of 1949, until December 31, 1950. At the request of the Administrator of General Services, the authority was extended, on previous recommendations of this committee, to June 30, 1953, by Public Law 522, approved on July 12, 1952; to June 30, 1954, by Public Law 245, approved August 8, 1953; and to June 30, 1955, by Public Law 492, approved July 14, 1954.

NEED FOR EXTENSION OF AUTHORITY

The committee understands that it has generally been the policy of General Services Administration to advertise surplus-property disposals and to sell the property by sealed bids, or by auction. However, in the sale of surplus property desired by States and local governments or by former owners—the two major classes of transactions covered by this bill—the circumstances occasionally are such as would make it inequitable or contrary to the public interest if those purchasers were required to bid competitively with private interests. Some local governments are prohibited by State law from bidding competitively. It is the intent of the committee, in recommending extension of the authority, that negotiated sales to States, local governments, former owners, or others be made at the current market value of the properties, as established by competent appraisers.

Legislation sponsored by GSA and passed by the 83d Congress (Public Law 760, approved August 31, 1954) authorized the use of sales proceeds to employ commercial real-estate brokers in the disposal of surplus real property. The law authorizes payments of brokers' commissions in accordance with the scale of fees customarily paid for such services in commercial transactions. It provides a means for securing the expert services of commercial brokers throughout the country who are specialists in selling particular classes of property available for disposal, thus increasing the Government's sales potential without building up large staffs of Government employees and increasing salaried personnel costs. Sales through brokers are negotiated sales within the meaning of the laws relating to sales on a competitive-bid basis after public advertising. Accordingly, sales through brokers have not been authorized since expiration of negotiating authority June 30, 1955. Enactment of this bill will enable reactivation of the program for real-property sales through commercial brokers.

The committee believes that, inasmuch as this bill would merely extend this authority to July 31, 1958, it should be approved by the Congress in the public interest. During the period of its operation, the committee proposes to further examine proposed legislation which would provide for the adoption of this method of disposing of surplus property on a permanent basis, as proposed by S. 2668, referred to elsewhere in this report.

LEGISLATIVE HISTORY

Experience has proven that in many instances representatives of the Federal Government who are engaged in the disposal of surplus property frequently reach a point where advertising will serve no useful purpose, and therefore the authority to negotiate with interested parties has proved to be a very useful and flexible device for disposal of many pieces of Government-owned surplus property.

As indicated in previous reports on bills extending this authority on a temporary basis, it was believed that this authority could be permitted to expire by the end of 1950 without causing any difficulty or delay in the disposal program. However, by reason of the action in Korea, certain parcels of real property which formerly were declared excess to the needs of the Department of Defense were withdrawn

from disposal, but subsequently declared excess, which fact, in the view of the committee, warranted further extensions.

Under existing authority the sale of surplus property, in all but a few exceptional cases, is required to be made by advertising and competitive bid. The Administrator of General Services has informed the committee that lack of authority to negotiate sales would make difficult the disposal of some real property to former owners and local governments, and would add to the cost of disposing of some lots of surplus personal property. The Department of Defense needs negotiating authority, through delegation from the Administrator, for some sales of scrap and demilitarized equipment. The House and Senate Committees on Government Operations suggested that studies be conducted with a view to considering further general legislation dealing with this problem in the present Congress in order to provide an orderly means of disposing of surplus property.

In accordance with this suggestion. the General Services Administration drafted a bill to provide permanent authority for the disposal of surplus property by negotiated sales which was introduced in the Senate on July 28, 1955 (S. 2668) by the chairman of this committee, at the request of the Administrator of General Services. The Subcommittee on Reorganization conducted hearings on H. R. 7855 and S. 2668 as well as a somewhat related bill, S. 1799, on April 25, 1956. In view of the extensive coverage and the broad policy changes involved in the two latter bills, the subcommittee recommended that action be taken on H. R. 7855, with an amendment extending the expiration date to July 31, 1958. This recommended action by the subcommittee would permit the committee to complete its studies of the operations of the program under the temporary authority, and to determine upon a permanent legislative program which it is proposed will be considered in the new Congress before the expiration of the temporary authority provided by the subject bill.

DISPOSAL PROCEDURE FOLLOWED UNDER PRESENT AUTHORITY

As a result of the act of July 12, 1952 (Public Law 522), which would be renewed if H. R. 7855 is approved, the Administrator of General Services is required to prepare and submit to the appropriate committees of Congress an explanatory statement setting forth the facts in relation to property to be disposed of in advance of its disposition. Under this requirement of law, the Senate Committee on Government Operations has adopted a procedure which requires staff examination of the facts in connection with each proposed disposal reported by the Administrator. Details are then submitted to the Senators from the State in which the property is located for comments and recommendations. In several other instances, the GSA has designated the holding agency as the disposal agency, as authorized by the law. In these latter cases, unless of minor importance, the facts have been submitted to the members of the committee for approval. If no objection is registered with the committee during the agreed 30-day period, by Senators from the States in which the property is located, or by a member of the committee, the GSA may dispose of the property under the conditions set forth in the explanatory statement.

EXEMPTION FROM THE REPORTING TO CONGRESSIONAL COMMITTEES OF NEGOTIATED DISPOSALS MADE UNDER OTHER AUTHORITY

In accordance with its established policy of keeping the appropriate committees fully informed regarding its operations, the General Services Administration has construed section 203(e) of the Federal Property and Administrative Services Act of 1949, as amended, as requiring explanatory statements to be submitted to the committees with respect to disposals negotiated without advertising under section 3709 of the Revised Statutes, as amended, Public Law 616, 80th Congress (relating to the disposition of surplus property for park, recreation, and historic monument purposes), Public Law 289, 80th Congress (relating to the disposition of surplus property for public airport purposes), and other statutes independent of the Federal Property and Administrative Services Act of 1949.

The committee wishes to emphasize that, in recommending temporary authority such as is proposed in the pending bill, it is not intended to require the submission of explanatory statements for disposals the negotiation of which is otherwise authorized by law other than section 203(e) of the Federal Property and Administrative Services Act of 1949, as amended. Accordingly, the requirement of an explanatory report on negotiated disposals is not intended to apply to disposals of property which may be made without advertising under section 3709 of the Revised Statutes, as amended; Public Law 616, 80th Congress; Public Law 289, 80th Congress; or any other law which authorizes the disposal of surplus property of designated classes without advertising.

AGENCY VIEWS

The extension of the authority proposed under H. R. 7855 was approved by the General Services Administration, the Bureau of the Budget, and the Department of Defense at hearings held by the Subcommittee on Reorganization on April 25, 1956. The following communication received from the Administrator of General Services indicates preference for permanent negotiating authority, as proposed by S. 2668. As indicated in this report, however, the GSA now endorses the temporary extension as proposed by H. R. 7855, pending further study by the committee.

GENERAL SERVICES ADMINISTRATION,
Washington, D. C., January 18, 1956.

Re H. R. 7855 and S. 2668.

Hon. JOHN L. MCCLELLAN,
Chairman, Committee on Government Operations,
United States Senate, Washington, D. C.

DEAR SENATOR MCCLELLAN: Further reference is made to your letter of December 2, 1955, requesting the views of this agency on H. R. 7855 and any additional comments on related bill S. 2668, both concerning procedure for disposal of Federal surplus property.

H. R. 7855, passed by the House of Representatives August 2, 1955, would amend section 203 (e) of the Federal Property and Administrative Services Act of 1949 by extending the date permitting negotiated disposals to June 30, 1956.

This agency favors the objective of said bill. Experience has demonstrated the wisdom of administrative authority to negotiate certain disposals of Federal surplus property. However, this agency prefers enactment of S. 2668 in lieu of H. R. 7855. The latter would constitute, if enacted, the fourth 1-year extension of such negotiating authority and is attendant with the evils of grants of power for short periods in dealing with permanent administrative responsibilities.

Each annual extension so far has been made after expiration of the previously granted authority and the period of lapse has ranged from 2 weeks to a year and a half. The most recent negotiating authority lapsed June 30, 1955. Plans for orderly disposal become disorganized under such procedure. Negotiations pending when authority expires must be terminated regardless of disappointment to both the prospective buyer and the Government. In circumstances where negotiation is particularly desirable special bills are then introduced. Sales of the property are suspended until action on the special bills or extension of negotiation authority occurs.

The interim extensions of negotiating authority were granted so that an appropriate permanent bill on the subject could be prepared. Now that such a bill is available it should be enacted rather than a mere temporary measure.

The Bureau of the Budget has advised that there is no objection to the submission of this report to your committee.

Cordially yours,

AL E. SNYDER,
Assistant Administrator.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, H. R. 7855, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949, AS AMENDED

SEC. 203. (e) Unless the Administrator shall determine that disposal by advertising will in a given case better protect the public interest, surplus property disposals may be made without regard to any provision of existing law for advertising until 12 o'clock noon, eastern standard time, [June 30, 1955] *July 31, 1958: Provided*, That an explanatory statement shall be prepared and submitted to the appropriate committees of Congress and a copy preserved in the file of all cases where negotiated disposal occurs.

PROPERTY DISPOSAL LAWS NOT AFFECTED BY H. R. 7855

As set forth in this report under the subheading "Exemption From the Reporting to Congressional Committees of Negotiated Disposals Made Under Other Authority," the following laws are not affected

by the provision of H. R. 7855 and will, in the view of this committee, require no explanatory statements to the appropriate congressional committees, should the bill be approved by Congress:

[PUBLIC LAW 616—80TH CONGRESS]

[CHAPTER 433—2D SESSION]

[S. 2277]

AN ACT To amend section 13 of the Surplus Property Act of 1944, as amended, to provide for the disposition of surplus real property to States, political subdivisions, and municipalities for use as public parks, recreational areas, and historic-monument sites, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 13 of the Surplus Property Act of 1944 (58 Stat. 770), as amended, is further amended by adding at the end thereof the following new subsection:

"(h) (1) Notwithstanding any other provision of this Act, any disposal agency designated pursuant to this Act may, with the approval of the Administrator, convey to any State, political subdivision, instrumentalities thereof, or municipality, all of the right, title, and interest of the United States in and to any surplus land, including improvements and equipment located thereon, which, in the determination of the Secretary of the Interior, is suitable and desirable for use as a public park, public recreational area, or historic monument, for the benefit of the public. The Administrator, from funds appropriated to the War Assets Administration, shall reimburse the Secretary of the Interior for the costs incurred in making any such determination.

"(2) Conveyances for park or recreational purposes made pursuant to the authority contained in this subsection shall be made at a price equal to 50 per centum of the fair value of the property conveyed, based on the highest and best use of the property at the time it is offered for disposal, regardless of its former character or use, as determined by the Administrator. Conveyances of property for historic-monument purposes under this subsection shall be made without monetary consideration: *Provided*, That no property shall be determined under this paragraph to be suitable or desirable for use as an historic-monument except in conformity with the recommendation of the Advisory Board on National Parks, Historic Sites, Buildings and Monuments established by section 3 of the Act entitled "An Act for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (49 Stat. 666), and no property shall be so determined to be suitable or desirable for such use if (A) its area exceeds that necessary for the preservation and proper observation of the historic monument situated thereon, or (B) it was acquired by the United States at any time subsequent to January 1, 1900.

"(3) The deed of conveyance of any surplus real property disposed of under the provisions of this subsection—

"(A) shall provide that all such property shall be used and maintained for the purpose for which it was conveyed for a period of not less than twenty years, and that in the event that such property ceases to be used or maintained for such purpose

during such period, all or any portion of such property shall in its then existing condition, at the option of the United States, revert to the United States; and

"(B) may contain such additional terms, reservations, restrictions, and conditions as may be determined by the Administrator to be necessary to safeguard the interests of the United States."

SEC. 2. Section 13 (f) of the Surplus Property Act of 1944, as amended, is amended to read as follows:

"(f) Except as otherwise provided by this section, the disposal of surplus property under this section to States and political subdivisions and instrumentalities thereof shall be given priority over all other disposals of property provided for in this Act except (1) transfers to Government agencies under section 12 of this Act, as amended, and (2) disposals to veterans under section 16 of this Act, as amended. Disposals of real property to States, political subdivisions, and instrumentalities thereof for any of the purposes specified in section 13 (a) (1) (A), section 13 (a) (1) (B), section 13 (c), section 13 (d), section 13 (e), section 13 (g), or section 13 (h) of such Act, as amended, shall be given priority over all other disposals of property provided for in this Act except transfers to Government agencies under section 12 of this Act, as amended. The Administrator may prescribe a reasonable time during which any such priority shall be exercised."

SEC. 3. Section 18 (e) of the Surplus Property Act of 1944, as amended, is hereby repealed.

Approved June 10, 1948.

[PUBLIC LAW 289—80TH CONGRESS]

[CHAPTER 404—1ST SESSION]

[S. 364]

AN ACT To expedite the disposition of Government surplus airports, airport facilities, and equipment and to assure their disposition in such manner as will best encourage and foster the development of civilian aviation and preserve for national defense purposes a strong, efficient, and properly maintained Nationwide system of public airports, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (c) of section 13 of the Surplus Property Act of 1944 (58 Stat. 765), as amended, is amended to read as follows:

"(c) No harbor or port terminal, including necessary operating equipment, shall be otherwise disposed of until it has first been offered, under regulations to be prescribed by the Administrator, for sale or lease to the State, political subdivision thereof, and any municipality, in which it is situated, and to all municipalities in the vicinity thereof."

SEC. 2. Section 13 of the Surplus Property Act of 1944 (58 Stat. 765), as amended, is hereby amended by adding a new subsection (g) reading as follows:

"(g) (1) Notwithstanding any other provision of this Act, any disposal agency designated pursuant to this Act may, with the approval of the Administrator, convey or dispose of to any State, political subdivision, municipality, or tax-supported institution, without monetary

consideration to the United States, but subject to the terms, conditions, reservations, and restrictions hereinafter provided for, all of the right, title, and interest of the United States in and to any surplus real or personal property (exclusive of property the highest and best use of which is determined by the Administrator to be industrial and which shall be so classified for disposal without regard to the provisions of this subsection) which, in the determination of the Administrator of Civil Aeronautics, is essential, suitable, or desirable for the development, improvement, operation, or maintenance of a public airport as defined in the Federal Airport Act (60 Stat. 170) or reasonably necessary to fulfill the immediate and foreseeable future requirements of the grantee for the development, improvement, operation, or maintenance of a public airport, including property needed to develop sources of revenue from nonaviation businesses at a public airport.

"(2) Except as provided in paragraph (3) hereof, all property disposed of under the authority of this subsection shall be disposed of on and subject to the following terms, conditions, reservations, and restrictions:

"(A) No property disposed of under the authority of this subsection shall be used, leased, sold, salvaged, or disposed of by the grantee or transferee for other than airport purposes without the written consent of the Administrator of Civil Aeronautics, which consent shall be granted only if the Administrator of Civil Aeronautics determines that the property can be used, leased, sold, salvaged, or disposed of for other than airport purposes without materially and adversely affecting the development, improvement, operation, or maintenance of the airport at which such property is located: *Provided*, That no structures disposed of hereunder shall be used as an industrial plant, factory, or similar facility within the meaning of section 23 of this Act, unless the public agency receiving title to such structures shall pay to the United States such sum as the Administrator shall determine to be a fair consideration for the removal of the restriction imposed by this proviso.

"(B) All property transferred for airport purposes shall be used and maintained for the use and benefit of the public, without unjust discrimination.

"(C) No exclusive right for the use of the airport at which the property disposed of is located shall be vested (either directly or indirectly) in any person or persons to the exclusion of others in the same class. For the purpose of this condition, an exclusive right is defined to mean—

"(1) any exclusive right to use the airport for conducting any particular aeronautical activity requiring operation of aircraft,

"(2) any exclusive right to engage in the sale or supplying of aircraft, aircraft accessories, equipment, or supplies (excluding the sale of gasoline and oil), or aircraft services necessary for the operation of aircraft (including the maintenance and repair of aircraft, aircraft engines, propellers, and appliances).

"(D) The grantee shall, insofar as it is within its powers, adequately clear and protect the aerial approaches to the airport by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

"(E) During any national emergency declared by the President or by the Congress, the United States shall have the right to make exclusive or nonexclusive use and have exclusive or nonexclusive control and possession, without charge, of the airport at which the surplus property is located or used, or of such portion thereof as it may desire: *Provided, however,* That the United States shall be responsible for the entire cost of maintaining such part of the airport as it may use exclusively, or over which it may have exclusive possession and control, during the period of such use, possession, or control, and shall be obligated to contribute a reasonable share, commensurate with the use made by it, of the cost of maintenance of such property as it may use nonexclusively or over which it may have nonexclusive control and possession: *Provided further,* That the United States shall pay a fair rental for its use, control, or possession, exclusively or nonexclusively, of any improvements to the airport made without United States aid.

"(F) The United States shall at all times have the right to make nonexclusive use of the landing area of the airport at which the surplus property is located or used, without charge: *Provided, however,* That such use may be limited as may be determined at any time by the Administrator of Civil Aeronautics to be necessary to prevent undue interference with use by other authorized aircraft: *Provided further,* That the United States shall be obligated to pay for damages caused by such use, or if its use of the landing area is substantial, to contribute a reasonable share of the cost of maintaining and operating the landing area, commensurate with the use made by it.

"(G) Any public agency accepting a conveyance or transfer of surplus property under the provisions of this subsection shall release the United States from any and all liability it may be under for restoration or other damages under any lease or other agreement covering the use by the United States of any airport, or part thereof, owned, controlled, or operated by the public agency upon which, adjacent to which, or in connection with which, the surplus property was located or used: *Provided,* That no such release shall be construed as depriving the public agency of any right it may otherwise have to receive reimbursement under section 17 of the Federal Airport Act for the necessary rehabilitation or repair of public airports heretofore or hereafter substantially damaged by any Federal agency.

"(H) In the event that any of the terms, conditions, reservations, and restrictions upon or subject to which the property is disposed of is not met, observed, or complied with, all of the property so disposed of or any portion thereof, shall, at the option of the United States, revert to the United States in its then existing condition.

"(3) In making any disposition of surplus property under this subsection (g), the disposal agency is authorized, upon the request of the Administrator of Civil Aeronautics, the Secretary of War, or the Secretary of the Navy, to omit from the instruments of disposal any of the terms, conditions, reservations, and restrictions required by paragraph (2) hereof, and to include any additional terms, conditions, reservations, and restrictions, if the Administrator of Civil Aeronautics, the Secretary of War, or the Secretary of the Navy determines that such omission or inclusion is necessary to protect or advance the interests of the United States in civil aviation or for national defense.

"(4) The Administrator of Civil Aeronautics shall have the sole responsibility for determining and enforcing compliance with the terms, conditions, reservations, and restrictions upon or subject to which surplus property is disposed of pursuant to this subsection.

"(5) All surplus property within the purview of this subsection which is not disposed of pursuant hereto shall be disposed of as provided elsewhere in this Act or other applicable Federal Statute.

"(6) Nothwithstanding the provisions of subsection (f) of this section and subsection (e) of section 18, the disposal of surplus property under this subsection, which is determined by the Administrator to be available for the purposes enumerated in this subsection, shall be given priority immediately following transfers to other Government Agencies under section 12."

Approved July 30, 1947.

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41 U. S. C. 5

§ 5. Advertisements for proposals for purchases and contracts for supplies or services for Government departments; application to Government sales and contracts to sell.

Unless otherwise provided in the appropriation concerned or other law, purchases and contracts for supplies or services for the Government may be made or entered into only after advertising a sufficient time previously for proposals, except (1) when the amount involved in any one case does not exceed $500, (2) when the public exigencies require the immediate delivery of the articles or performance of the service, (3) when only one source of supply is available and the Government purchasing or contracting officer shall so certify, or (4) when the services are required to be performed by the contractor in person and are (A) of a technical and professional nature or (B) under Government supervision and paid for on a time basis. Except (1) as authorized by section 1638 of Appendix to Title 50,[1] (2) when otherwise authorized by law, or (3) when the reasonable value involved in any one case does not exceed $500, sales and contracts of sale by the Government shall be governed by the requirements of this section for advertising. (R. S. § 3709; Aug. 2, 1946, ch. 744, § 9 (a), 60 Stat. 809; June 30, 1949, ch. 288, title VI, § 602 (f), 63 Stat. 403; Sept. 5, 1950, ch. 849, §§ 6 (a) (b), 8 (c), 64 Stat. 583, 591).

[1] The first exception was repealed by sec. 602 (a) (1) of the Federal Property and Administrative Services Act of 1949.

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